

CHAPTER 4

BUILDINGS

For state law as to building inspection in cities, see G.S., §§ 160A-411 to 160A-438.

As to director of public works generally, see §§ 2-33 to 2-35 of this Code.

As to cemeteries generally, see Ch. 5. As to fire protection and prevention generally, see Ch. 7. As to housing generally, see Ch. 9.

As to mobile home parks generally, see Ch. 12. As to noise generally, see §§ 14-11, 14-12. As to encroachments on streets and sidewalks, see § 16-1. As to subdivision of land generally, see Ch.17. As to water and sewers generally, see Ch.19. As to zoning generally, see Ch. 20.

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Sec. 4-1. Adoption of Building Code.

The North Carolina State Building Code is hereby adopted and declared to be a part of this chapter as though fully set out herein and shall apply to the construction, alteration, repair, removal, equipment, maintenance, use, occupancy and material of all buildings in the city. (Code 1961, § 4-1.)

For state law as to authority of City to adoption by reference, see G.S., § 160A-76. As to State Building Code generally, see G.S., 143-136 to 143-143.2. As to filing of technical codes adopted by reference, see § 1-9 of this Code.

Sec. 4-2. Adoption of Plumbing, Heating and Electrical Codes.

The city council does hereby adopt the state Plumbing, Heating and Electrical Codes. (3-9-70)

As to filing of technical codes adopted by reference, see § 1-9 of this Code.

Sec. 4-3. Fire limits established.

In accordance with North Carolina General Statute 160A-435 primary and secondary fire limits are hereby established, the boundaries of each such limits being as shown on the duly adopted map entitled "Primary and Secondary Fire Limits of the City of Mount Holly". All construction within the primary fire limits shall be only in accordance with the provisions of North Carolina General Statute 160A-436 and applicable provisions of the North Carolina Building Code as the same may be amended from time to time. All construction within the secondary fire limits shall be of the same type required of construction within the primary fire limits except as may be allowed by the City Council of Mount Holly upon a finding of fact by the City Council that such deviations from the requirements within the primary fire limits does not constitute an unreasonable fire hazard within the district. (Code 1961, § 4-2, 11-10-80)

For state law requiring city to establish fire limits, see G.S., § 160A-435.

Sec. 4-4. Building Inspector.

The director of public works shall be the building inspector. (Code 1961, § 4-3.)

For state law as to authority of city to appoint a building inspector, see G. S., § 160A-411.

As to director of public works generally, see §§ 233 to 2-35 of this Code.

As to powers and duties of building inspector with respect to housing standards, see §§ 9-11 to 9-13. As to enforcement of mobile home park regulations, see § 12-2.

Sec. 4-5. Inspection fees.

A fee shall be charged for a building inspection and a card shall be displayed indicating that a building permit has been obtained. A schedule of applicable fees shall be kept in the office of the city manager. (Code 1961, § 4-4.)

Sec. 4-6. House numbering--Required.

- (a) It shall be the duty of the owner of each house or building in the city to properly display on the front thereof, in a position easily observed, the proper number of his house or building, for the ascertainment of which he shall apply to the city clerk.
- (b) Upon notice by the city manager to any owner or occupant of any house or building, it shall be the duty of such owner or occupant within ten days after such notice shall have been given assigning to such house or building a number or numbers, to cause such house or building to be numbered as required, at the expense of such owners or occupant. (Code 1961f § 4-5.)

Sec. 4-7. Same--Rules for numbering.

The following rules shall obtain in the numbering of houses or buildings:

- (a) The reference streets for house numbering are;
 - (1) North Main Street from Charlotte Avenue to the city limits.
 - (2) South Main Street from Charlotte Avenue to the city limits.
 - (3) West Charlotte Avenue from Main Street to the city limits.
 - (4) East Charlotte Avenue from Main Street to the Catawba River.
 - (5) Streets intersecting these streets shall begin at No. 100, the second block beginning at No. 200, the third block beginning at No. 300, and so on, with one exception of Hawthorne Street where the divergence of West Charlotte Avenue and West Central Avenue is so great in distance to require a block numbered from zero to the 100 block.
- (b) Going away normally from the reference street the even numbers shall be on the right-hand side of the street and the odd numbers on the left-hand side.
- (c) A separate number shall be assigned for each twenty-five foot frontage on a street, regardless of whether the lots front on the street being numbered or not.
- (d) Other streets not intersecting reference streets, and streets which are not extensions of streets which intersect these reference streets, shall begin at No. 100 on the end of the street which is nearest and perpendicular to one of these reference streets, and the same system of numbering the blocks is to be

followed out as noted in subsection (a) of this section, assigning a new 100 (or block number) to each block, or if a block is nine hundred feet long or more, with no intersecting street between, then a new block number shall begin at the most logical place for a street to be cut through it, or half way between the long block corners.

- (e) Stairway entrances leading to upstairs offices or apartments shall be numbered with a 1/2 number greater following consecutively the previous downstairs street number. Houses or buildings to the rear of houses or buildings which front a street shall be numbered with an A, B, C, or D number following the appropriate number of the house or building in front of them. (Code 1961, § 4-6.)

Sec. 4-8. Same--Must use number assigned.

It shall be unlawful for the owner of any house or building in the city to which a street number has been assigned and affixed, to attach or paint on such house or building, any figure tending or purporting to indicate the street number on such house or building, unless the number so indicated be the number assigned to such house or building as provided in Section 4-6. (Code 1961, § 4-7.)

Sec. 4-9. Same--Removing, obliterating or destroying.

It shall be unlawful for any person to remove, obliterate or destroy any such house or building number attached to, or painted on, such house or building, as required to be displayed by the provisions of Section 4-6. (Code 1961, § 4-8.)

Sec. 4-10. Exercise of police power; finding; purpose.

- (a) It is hereby found and declared that there exist in the City of Mount Holly structures and buildings other than buildings utilized for housing of humans (hereinafter called "buildings") which are especially dangerous to life because of defects in such buildings increasing the hazards of fire, accidents, and other calamities; or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, or inadequate means of egress; or because of their violation of the minimum standards prescribed in the regulatory code adopted by the city and appearing in Chapter 9 of this Code; or because of other conditions rendering the buildings unsafe or unsanitary, and dangerous and otherwise inimical to the welfare of the citizens of the city.
- (b) In order to protect the health, safety and welfare of the citizens of Mount Holly, it is the purpose of this article to provide procedures for the repair, closing or demolition of the aforesaid buildings.
- (c) No provision of this article shall be held to deprive any federal or state agency, or any municipal authority having jurisdiction, of any power or authority which it

had on the effective date of this article or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law. (6-27-11)

Sec. 4-10.1. Administration.

- (a) Inspections superintendent; duties; powers. The inspections superintendent of the inspections division of the planning department is hereby designated the public officer to exercise the duties and powers prescribed by this article.

(1) Duties. It shall be the duty of the inspections superintendent:

- a. To investigate all buildings located in the city, in order to determine whether such buildings are especially dangerous to life because of defects in such buildings increasing the hazards of fire, accidents and other calamities; or because of bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress; or because of their violation of the minimum standards prescribed in the regulatory codes adopted by the city and appearing in Chapter 9 of this Code; or because of other conditions rendering the buildings unsafe or unsanitary, and dangerous and otherwise inimical to the welfare of the citizens of the city.
- b. To take action prescribed by this article, alone or together with other appropriate departments and agencies, public or private, as may be necessary to carry out the general spirit and purpose of this article.
- c. To keep adequate records of all activity conducted pursuant to this article, including but not limited to, an inventory of those buildings that do not meet minimum standards prescribed by this article.
- d. To report annually to the city manager concerning the work of his division under this article.
- e. To perform each and every duty necessary and incidental to the fulfillment of the general spirit and purpose of this article.

(2) Powers. The inspections superintendent is hereby authorized to exercise any powers necessary or convenient to carry out and effectuate the general spirit, purpose and provisions of this article, including specifically, but not limited to, the following:

- a. To investigate the buildings covered under this article which are located in the city in order to determine which buildings are especially dangerous to life under the provisions of section 4-10.
- b. To administer oaths, affirmations, examine witnesses and receive evidence.
- c. To enter upon premises for the purpose of making examinations and inspections in a manner that will do the least possible inconvenience to the persons in possession.

- d. To appoint and fix the duties of officers, agents and employees necessary to carry out the purposes of this article.
 - e. To delegate any of his functions and powers under this article to other officers and other agents.
- (b) No utility services. The city shall not provide, more permit another to provide (either public or private) utility services such as water, gas, electricity, sewer, etc., to any building which is especially dangerous to life because of any of the conditions set forth in section 4-10, and which has become vacant, until such building has been inspected and brought into compliance with the regulatory codes adopted in this chapter, and a valid certificate of compliance as required has been issued. This requirement shall not preclude the temporary use of such utility services as may be deemed necessary during construction, repair or alteration. The inspections superintendent shall be responsible for making the determination as to when such "temporary services" may be necessary.
- (c) No permits. No building, plumbing, electrical, gas or other permit, as may be required, for an addition, alteration or repair of any existing building which is especially dangerous to life because of the conditions set forth in section 4-10 shall be issued until such time as an inspection of the property has been made to determine the feasibility of rehabilitation of such building. (6-27-11)

Sec. 4-10.2. Preliminary investigation; condemnation; placarding.

Whenever it appears to the inspections superintendent that a building is in the state described in section 4-10, the inspections superintendent shall condemn the building by posting on a conspicuous place on an exterior wall of the building a notice with the following words: "This building is hereby declared unsafe and is condemned; the use or occupation of this building is prohibited and unlawful." Occupation or use of a building so posted is in violation of this article and shall constitute a misdemeanor pursuant to G.S. 14-4. The unauthorized removal of such a notice shall constitute a misdemeanor pursuant to G.S. 160A-427. A copy of the posted notice, a detailed report of the inspections superintendent and a request that the owner take prompt corrective action with respect to the building shall be personally delivered or mailed to the owner of the building, if he and his address are known. (6-27-11)

Sec. 4-10.3. Service of Notice.

If the owner of a building that has been condemned pursuant to section 4-10.2 shall fail to take prompt corrective action, the inspections superintendent shall give him written notice by serving pursuant to section 9-43 a notice stating the following:

- (1) That the building is in a condition that appears to constitute a fire or safety hazard, or to be dangerous to life, health or other property;
- (2) That a hearing will be held before the inspections superintendent at a designated place and time, not later than ten days after the date of the notice;

- (3) That the owner shall be entitled to be heard in person or by counsel, and to present arguments and evidence pertaining to the matter; and
- (4) That following the hearing, the inspections superintendent may issue such order to repair, close, vacate or demolish the building as appears appropriate. (6-27-11)

Sec. 4-10.4. Hearing; procedure after hearing.

Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence in courts of law and equity shall not be controlling in hearings before the inspections superintendent. If, upon a hearing held pursuant to the requirements of this article, the inspections superintendent shall find that the building is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health or other property, he shall make an order in writing, directed to the owner of such building, requiring the owner to remedy the defective conditions by repairing, closing, vacating or demolishing the building, or taking other necessary steps, within such period, not less than 60 days, as the inspections superintendent may prescribe. (6-27-11)

Sec. 4-10.5. Failure to comply with order.

- (a) In personam remedy. If the owner of a building fails to comply with an order of the inspections superintendent issued pursuant to section 4-10.4 within the time specified therein, the inspections superintendent may follow the procedure of section 9-42(c)(1); or
- (b) In rem remedy. If the owner of a building fails to comply with an order of the inspections superintendent issued pursuant to section 4-10.4 within the time specified therein, or if judicial relief has not been sought or has not been granted as provided in the preceding subsection (a), then in any of these events the inspections superintendent shall follow the procedure of section 9-42(c)(2).
- (c) Misdemeanor. Pursuant to G.S. 160A-431, if the owner of a building fails to comply with an order issued under section 4-10.4 from which no appeal is taken, or fails to comply with an order of the council following an appeal, he shall be guilty of a misdemeanor. Each day of such failure to comply shall constitute a separate offense. (6-27-11)

Sec. 4-10.6. Appeals from orders of inspections superintendent.

- (a) Under this article, pursuant to G.S. 160A-430, any owner who has received an order issued under section 4-10.4 may appeal from the order to the council by giving notice of appeal in writing to the inspections superintendent and to the city clerk within ten days following the issuance of the order. In the absence of such an appeal, the order of the inspections superintendent shall be final. The council

shall hear an appeal under this section within a reasonable time, and may modify, affirm or revoke the order.

- (b) Upon the filing of any notice of appeal, the inspections superintendent shall forthwith transmit to the council all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the inspections superintendent refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspections superintendent requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the council unless the inspections superintendent certifies to the council, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order granted by the council for due cause shown upon not less than one day's written notice to the inspections superintendent, or by a restraining order of any court of record. (6-27-11)

Sec. 4-10.7.- Severability.

The provisions of this article are severable to the same extent as provided in section 4-11.9. (6-27-11)

Sec. 4-10.8 - 4-10.37. - Reserved.

Sec. 4-11. Commercial Maintenance Code

This Code shall be known and will be referred to herein as the "Commercial Maintenance Code", and may be cited as such. (6-27-11)

Sec. 4-11.1. Purpose and scope

It is the purpose of the provisions of this article to provide a just, equitable, and practical method whereby commercial buildings or structures which from any cause, endanger the life, limb, health, property or safety or welfare of the general public or their occupants, impede economic development, diminish property values, or detract excessively from the appropriate appearance of the commercial area, may be required to be repaired. Vacated or demolished. It is the further purpose of this article to preserve the character and integrity of the community. (6-27-11)

Sec. 4-11.2. Definitions.

For the purpose of this Code, certain abbreviations, terms, phrases, words, and their derivatives shall be construed as set forth in this section; and words used in the present tense include the future, words in masculine gender include the feminine and

neuter, words in the feminine and neuter gender include the masculine, and the singular number includes the plural and the plural number includes the singular.

- (1) Approved. Approved by the chief code enforcement officer or his authorized agent.
- (2) Attractive Nuisance. Condition on the land that is likely to attract children who are unable to appreciate the risk posed by the object or condition.
- (3) Building. Any structure used or intended for supporting or sheltering any use or occupancy.
- (4) Building area. The area included within surrounding exterior walls (or exterior walls and fire walls) exclusive of vent shafts and courts. Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or the floor above.
- (5) Building code. Any edition, together with all adopted amendments and supplements thereto, of the North Carolina Building, Plumbing and Mechanical Code, Gas Code and Electric Code, the North Carolina Residential Building Code, the North Carolina Rehabilitation Code or any other building rules or regulations adopted by the city relating to the construction, alteration, repair or removal of various types of structures.
- (6) Building of historical value. A building which is listed on the National Register, or constituting special significance to the general citizenry of the City of Mount Holly due to age, history, architectural design, human occurrence, culture and possessing integrity of design, setting, materials, feelings and association.
- (7) Chief code enforcement official/officer. Shall mean the person who has been designated, in writing, by the city manager to enforce the provisions of this chapter.
- (8) Code enforcement officer. Shall mean the employees of the code enforcement division.
- (9) Commercial business. Any business or enterprise which produces and/or offers for sale products and/or services or in any manner conducts commerce.
- (10) Nuisance.
 - (a) Any public nuisance known at common law or in equity, or as provided by the Statutes of North Carolina or the ordinances of the city; or
 - (b) Any condition including an attractive nuisance which may prove detrimental to human health or safety whether in a building, on the premises of a building, or part of a building or upon an occupied lot; or
 - (c) Physical conditions dangerous to human life or detrimental to health of persons in, on or near the premises where the condition exists; or
 - (d) Unsanitary conditions or conditions that are dangerous to public health, well being or the general welfare; or
 - (e) Fire hazards or other safety hazards.
- (11) Owner. Any person who jointly or severally:
 - (a) Has title or any interest in or to any structure, building, dwelling or dwelling unit, without regard to actual possession; or

- (b) Has charge, care or control of any structure, building, dwelling or dwelling unit as owner or representative of the owner or as a fiduciary of the estate of the owner. It is specifically noted that any person meeting the definition of "owner" under this subsection (b) shall be bound to comply with the provision of the Code to the same extent as though he were an "owner" under the above definition in subsection (a).
- (12) Structurally sound. Substantially free from flaw, defect, decay or deterioration to the extent that such structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed. (6-27-11)

Sec. 4-11.3.- Applicability and compliance.

- (a) Every commercial building or structure and the premises on which it is situated, used or intended to be used for commercial business occupancy shall comply with the provisions of this Code, whether or not such building shall have been constructed, altered, or repaired before or after the enactment of this article, and irrespective of any permits or licenses which shall have been issued for the use of occupancy of the building or for the installment or repair of equipment or facilities prior to the effective date of this article. This article establishes minimum standards for the initial and continual occupancy and use of all such buildings, and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building, equipment or facilities contained therein except as provided in section herein. Where there is mixed occupancy, any commercial business use therein shall be regulated by and subject to the provisions of this article.
- (b) It shall be the duty of each and every owner, operator or other party in interest of a commercial building or premises to which this article is applicable to comply with the regulations and requirements set forth herein. No license, permit or certifications of occupancy shall be issued unless and until all applicable sections of this article have been complied with. No land or building or combination thereof, shall be used in a manner inconsistent with or in conflict with the requirements of this article.
- (c) The provisions of this Code that apply to the exterior or exterior components of a building shall be complied with whether the structure or building is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured to prevent the entry of unauthorized persons or the occurrence of conditions not permitted by law in accordance with the standards set out herein. (6-27-11)

Sec. 4-11.4. -Maintenance standards for commercial structures.

All commercial premises shall be maintained in a state of good repair that prevents further decay from wind, rain, and external weather and secures the building from any unauthorized admittance from humans, animals or birds. All commercial premises shall be free of all nuisances and any hazards to the safety of occupants, customers or other persons utilizing the premises or to pedestrians and/or vehicles

passing thereby. Without limitation of the foregoing requirement, the existence of any of the following conditions shall be deemed to be a violation of this section and must be corrected:

- (1) Interior walls or vertical studs, which seriously list, lean or buckle, to such an extent as to render the building unsafe.
- (2) Supporting member or members which show thirty-three (33) percent or more damage or deterioration, or non-supporting; non-supporting members or enclosing or outside walls, or covering which shows fifty (50) percent or more of damage or deterioration.
- (3) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Such damage by fire, wind or other causes as to render the building unsafe.
- (5) Dilapidation, decay, unsanitary conditions or disrepair, which is dangerous to the health, safety and welfare of the occupants or other people in the city.
- (6) Inadequate facilities for egress to such an extent that there does not exist at a minimum, sufficient operable doors that the building can be entered safely and exited in the same manner in case of fire or panic.
- (7) Defects significantly increasing the hazards of fire, accident or other calamities.
- (8) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the city.
- (9) Lack of proper electrical, heating or plumbing facilities required by this article which constitutes a health or a definite safety hazard. If the electrical, heating or plumbing facilities are in such a condition that the service to those facilities needs to be discontinued to protect the general public, then the chief code enforcement officer shall be authorized to notify the appropriate official to disconnect service and that the service shall not be reconnected until the building has been re-inspected and cleared of all violations. Temporary service connections may be permitted to allow for construction and/or cleaning.
- (10) Any violation of the city Fire Prevention Code which constitutes a condition which is unsafe and especially dangerous to life.
- (11) Buildings and environs shall be kept clear of accumulations of garbage, trash, or rubbish, which creates health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary way.
- (12) Flammable, combustibles, explosive or other dangerous or hazardous materials shall be stored in a manner approved for such materials and consistent with the City Fire Prevention Code.
- (13) The buildings and environs shall be kept free and loose and insufficiently anchored overhanging objects, which constitute a danger of falling on persons or property.
- (14) The environs shall be kept free of insufficiently protected holes, excavations, breaks, projections, obstructions and other such dangerous impediments on and around walks, driveways, parking lots, alleyways and other areas which are accessible to and generally used by persons on or around the premises.

- (15) The building and environs surfaces shall be kept clear of cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic or other dangerous objects or similar hazardous conditions. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration and repaired or replaced with like or similar material according to its original use.
- (16) The building and environs shall be kept free of objects and elements protruding from building walls, roof and environs which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets and similar objects.
- (17) All chimneys, flues, and vent attachments thereto shall be maintained structurally sound. Chimneys, flues, gas vents or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases.
- (18) All exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair, and free of defects.
- (19) All cornices shall be made structurally sound. Rotten or weakened portions shall be repaired and/or replaced. All exposed wood shall be treated or painted.
- (20) Gutters and down-spouts shall be replaced or repaired as necessary and shall be appropriately located so as not to cause a hazard to pedestrian, vehicular traffic or property.
- (21) Attached and unattached accessory structures shall not cause a nuisance or safety hazard and shall be maintained in a state of good repair.
- (22) Advertising sign structures, attached or freestanding awnings, marquees and their supporting members and other similar attachments and structures shall be maintained in good repair and shall not cause a nuisance or safety hazard to the occupants, pedestrians or other residents of the city.
- (23) Walls, partitions, supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.
- (24) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used and shall not leak.
- (25) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- (26) Interior steps, railings, landings, porches or other parts or appurtenances, shall be maintained in such condition that they will not fail or collapse.
- (27) All plumbing fixtures and pipes shall meet the standards of the Plumbing Code and shall be maintained in a state of good repair and in good working order.
- (28) All electrical fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the Electric Code.

- (29) Every supplied facility, piece of equipment or utility which is required under this article or the Building Code for occupancy or use shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- (30) Adequate facilities for egress in case of fire or panic shall be provided and shall remain free from obstructions at all times for such purposes.
- (31) All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints or broken or loose mullions.
- (32) All windows shall be maintained free of broken or cracked glass that could be in danger of failing or shattering.
- (33) All openings originally designed as windows, doors, loading docks, or other means of egress or ingress shall be maintained as such, unless the chief code enforcement officer specifically approves the closing and the materials being used to close the openings. If an opening is temporarily closed by boarding to secure the building, the boarding shall be trim fit, sealed to prevent water intrusion, and painted or stained to properly conform with the other exterior portions of the building.
- (34) All yards and environs shall be properly graded and maintained so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
(6-27-11)

Sec. 4-11.5. -Hearing and notice of violation.

- (a) Whenever it appears to the chief code enforcement officer that a building is in violation of a provision of this article, he shall issue and cause to be served upon the owner of such building a complaint stating the charges and containing a notice that a hearing will be held before the chief code enforcement officer at a place and time therein fixed, not less than ten nor more than 30 days after the serving of said complaint. The owner 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. Any person desiring to do so may attend such 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 chief code enforcement officer. Following the hearing, the chief code enforcement officer shall dismiss the complaint if he finds no violation; if he finds that violations of this article exist, he shall order compliance setting forth a maximum of up to 180 days within which to correct the violations. Such order shall contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.
- (b) If the chief code enforcement officer determines that the repairs, alterations or improvements necessary to bring the building into compliance with the provisions of this article can be made at a cost of less than 50 percent of the present value of the building, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof. an order directing and requiring the owner to repair, alter and improve such building to comply with the standards contained herein.

- (c) If the chief code enforcement officer determines that the repairs, alterations or improvements necessary to bring the building into compliance with the provisions of the article can not be made at a cost of less than 50 percent of the present value of the building, he shall state in writing his findings of fact in support of such 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 such building to comply with the standards contained herein or to demolish the building. (6-27-11)

Sec. 4-11.6.- Service of complaints and orders.

- (a) Complaints and all orders issued by the chief code enforcement officer shall be served by the chief code enforcement officer upon persons either personally or by registered or certified mail. When service of a complaint or order is accomplished personally or by registered or certified mail, such service is hereby deemed to be complete on the day of delivery to or receipt by the person served. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused but the regular mail is not returned by the post office within ten days after mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- (b) If the identities of any owners or the whereabouts of persons are unknown and the same cannot be ascertained by the chief code enforcement officer in the exercise of reasonable diligence, or, if the enforcement officer make an affidavit to that effect, then the serving of such complaint or order upon the owners or other persons may be made by publication in a newspaper of general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this article. When service is made by publication, a copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order; in the ease of the complaint, it must be posted at least ten days prior to the hearing. (6-27-11)

Sec. 4-11.7. Failure to comply with orders.

- (a) If the owner fails to comply with an order to repair the building or structure, the chief code enforcement officer may:
- (1) Cause such structure to be repaired, and pending such repairs, may order the building to be vacated and closed.
 - (2) Cause to be posted on the main entrance of any structure so closed, a placard entitled. "notice of condemnation" with the following words: "Notice is hereby given that this building is unsafe and in a dangerous condition; may constitute a fire hazard by reason of structural defects and general state of decay, deterioration and disrepair; may be hazardous or dangerous to children or members of the public generally, or may be dangerously infested with

vermin, rodents, or insects. Such building has been condemned under the building laws of the State of North Carolina and the City of Mount Holly.”

- (b) If the owner fails to comply with an order to remove or demolish the building, the chief code enforcement officer may:
- (1) Cause such structure to be removed or demolished;
 - (2) Cause to be posted, pending demolition, on the main entrance of any structure so closed, a placard entitled. "notice of condemnation" with the following words: “Notice is hereby given that this building is unsafe and in a dangerous condition; may constitute a fire hazard by reason of structural defects and general state of decay, deterioration and disrepair; may be hazardous or dangerous to children or members of the public generally, or may be dangerously infested with vermin, rodents, or insects. Such building has been condemned under the building laws of the State of North Carolina and the City of Mount Holly.”
- (c) The duties of the chief code enforcement officer set forth in subsections (a) and (b) shall not be exercised until:
- (1) The city attorney shall institute in the general court of justice an appropriate action to seek an order of the court directing such owner to comply with the order of the chief code enforcement officer; or
 - (2) The chief code enforcement officer shall request the council to order him by an ordinance specifically describing the subject property to do the following: either (i) to cause such building to be repaired, altered and improved to comply with the standards established by this article, or (ii) to cause such building to be vacated, closed, and removed or demolished. The council, in ordering one of the aforesaid alternatives, shall order the specific action that will best effectuate the purposes of this article. Once the ordinance is adopted by the council a true copy of such ordinance shall be recorded in the officer of the register of deeds of Gaston County and the registrar shall index the name of the property owner in the "grantor index."
- (d) The amount of the cost of repairs, alterations and improvements, or vacating, closing and removal or demolition shall be a lien against the real property upon which the cost was incurred. Such lien shall be filed, have the same priority and be collected as the lien for special assessment provided in Article 10, Chapter 160A of the North Carolina General Statutes. If the unsafe building is removed or demolished by the chief code enforcement officer, he shall, if possible, sell in any commercially reasonable manner the materials of the unsafe building and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition. Any balance remaining shall be deposited by the chief code enforcement officer with the clerk of superior court for subsequent disbursement by the court to the persons found by the court to be entitled thereto.

- (e) Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, nor provided herein or otherwise.
- (f) Nothing in this section shall be construed to impair or limit in any way the power of the building inspector in the proper enforcement of the duties of his office, as assigned, nor shall the enforcement of one remedy provided herein prevent the enforcement of any other remedies provided herein or otherwise. (6-27-11)

Sec. 4-11.8. -Appeals.

- (a) An appeal from any decision or order of the chief code enforcement officer pursuant to this article may be taken by any person aggrieved thereby. Any appeal from the chief code enforcement officer shall be taken within ten days from the rendering of the decision, or if either the owner or his attorney was not present when the decision was rendered, then within ten days of service of such order. Such appeal shall be taken by filing with the chief code enforcement officer and with the board of adjustment created in chapter 20, article VII, of this Code (hereinafter called "the board") a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the chief code enforcement officer shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed was made. When an appeal is from a decision of the chief code enforcement officer refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the chief code enforcement officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the chief code enforcement officer certifies to the board after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of his requirement would cause imminent peril to life or property. In that case, the requirement shall not be suspended except by a restraining order, which may be granted for due cause upon not less than one day's written notice to the chief code enforcement officer by the board, or by a court of record upon petition made pursuant to subsection (d) of this section. All regulations, fees and other rules of the board shall apply to these appeals as stated in section 9-42 (d).
- (b) The board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the chief code enforcement officer, but the concurring vote of four-fifths of the members of the board shall be necessary to reverse or modify any decision or order of the chief code enforcement officer. The board shall have power also in passing upon appeals, in

any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

- (c) If the board determines that the building is a building of historical value, the board may enter an order holding the matter in abeyance provided that the owner repairs the building on a timely basis. Such repairs shall commence within six months of the board's order and shall be completed within two years of said date. All such repairs shall be completed in such a way as to maintain the historic character of the building and shall comply with the United States Secretary of Interior standards for the treatment of historic rehabilitation. If the repairs are not commenced and completed within the time periods set out in the order, the chief code enforcement officer shall proceed to enforce his original order.
- (d) Every decision of the board shall be subject to review by the Superior Court of Gaston County by proceedings in the nature of certiorari instituted within 15 days of the decisions of the board, but not otherwise.
- (e) Any person aggrieved by an order issued by the chief code enforcement officer or a decision rendered by the board shall have the right, within 30 days after the issuance of the order or rendering of a decision, to petition the superior court for a temporary injunction, restraining the chief code enforcement officer pending a final disposition of the cause. (6-27-11)

Sec. 4-11.9.- Violations and penalties.

- (a) It shall be unlawful for the owner of any building to fail, neglect, or refuse to repair, alter, and improve the same; or to fail to vacate, close, and remove or demolish the same, upon order of the chief code enforcement officer duly made and served as herein provided, within the time specified in such order, and each day that such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any building with respect to which an order has been issued pursuant to this article to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration and improvement or its vacation, closing and removal or demolition, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (b) Any owner of a building who fails to comply with an order described in subsection (a), or allows occupancy of the building subject to such order after the compliance period in the order has expired, shall be subject to a civil penalty of \$250.00 for each day that noncompliance continues following the expiration of the compliance period specified in the order of compliance. If a person fails to pay the civil penalty within ten days of receipt of the citation, the city may seek to collect it in a civil action in the nature of a debt.
- (c) Each day that a violation continues after notification that such violation exists shall constitute a separate and distinct offense for purposes of the penalties and remedies set forth in this section.

- (d) In Personam Remedy. If the owner of a building fails to comply with an order of the inspection superintendent issued pursuant to Section 9-42 within the time specified therein, the inspection superintendent may follow the procedure of Section 9-42(c).
- (e) In Rem Remedy. If the owner of a building fails to comply with an order of the inspection superintendent issued pursuant to Section 9-42 within the time specified therein, or if judicial relief has not been sought or has not been granted as provided in the preceding paragraph (d), then in any of these events the inspection superintendent shall follow the procedure of Section 9-42(c).
- (f) Misdemeanor. Pursuant to North Carolina General Statute 160A-431, if the owner of a building fails to comply with an order issued under Section 9-42 from which no appeal is taken, or fails to comply with an order of the City Council following an appeal, he shall be guilty of a misdemeanor. Each day of such failure to comply shall constitute a separate offense.
- (g) This article may be enforced by any appropriate equitable action.
- (h) This article may be enforced by any one, all, or any combination of the remedies authorized in this section. (6-27-11)