

## **CHAPTER 155: UNSAFE BUILDINGS**

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**§ 155.01 FINDINGS; INTENT.**

Pursuant to the authority granted by G.S. §160A-441, it is the intent of this chapter to provide for the structural repair, closing, or demolition of any commercial structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing, or demolition of structures unsafe for human use. (Ord. passed 8-17-93)

**§ 155.02 DUTIES OF THE BUILDING INSPECTOR.**

The Building Inspector is hereby designated as the Town officer to enforce the provisions of this chapter. The Building Inspector has the following duties to perform:

- (A) Locate commercial structures in violation of this chapter;
- (B) Take actions pursuant to these sections as may be necessary for the provision of repair, closing, or demolition of the structures.

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

(D) Perform any other duties as may be prescribed herein or assigned to him by the Town Board of Commissioners. (Ord. passed 8-17-93)

**§ 155.03 POWERS OF THE BUILDING INSPECTOR.**

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

(A) To investigate the condition of commercial buildings within the Town 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) Examine witnesses and receive evidence, and to administer oaths and affirmations.

(D) To designate other officers, agents, and employees of the Town as deemed necessary to carry out the provisions of this chapter. (Ord. passed 8-17-93)

**§ 155.04 STANDARDS FOR ENFORCEMENT.**

(A) Commercial structures within the Town limits shall be deemed in violation of this chapter whenever the structure constitutes a hazard to the health, safety, or welfare of the 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 the public health.
- (4) Frequent use by vagrants as living quarters.

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

- (1) Holes or cracks in the structure's floors, walls, ceilings, or roof which might attract or admit rodents and insects, or become breeding places for rodents or insects.
  - (2) The collection of garbage, rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects.
  - (3) Violations of the State Building Code, the State Electrical Code, or the fire protection code which constitutes a fire hazard in the structure.
  - (4) The collection of garbage, rubbish, or combustible material, which constitute 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 State Building Code, which might result in 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.
- (Ord. passed 8-17-93)

**§ 155.05 PROCEDURE FOR ENFORCEMENT.**

(A) *Preliminary investigation, notice, hearing.* Whenever a petition is filed with an inspector by at least five (5) residents of the Town charging that any commercial structure exists in violation of this chapter or whenever it appears to the inspector, upon inspection, that any

commercial structure exists in violation hereof, the inspector shall, if the preliminary inspection discloses a basis for the charges, issue and cause to be served to the owner of and parties in interest in the commercial structure, a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten (10) nor more than thirty (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 commercial 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 inspector.

(B) *Procedure after hearing.* After the notice and hearing, the inspector shall state in writing a determination whether the commercial structure violates this chapter. If the inspector determines that the commercial structure is in violation the inspector shall state in writing the findings 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 commercial structure or else remove or demolish it within a specified period of time not to exceed ninety (90) days.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any commercial structure shall fail to comply with an order of the inspector within the time specified therein, the inspector may submit to the Town Board of Commissioners at its next regular meeting a resolution directing the Town Attorney to petition the Superior Court for an order directing the owner to comply with the order of the inspector, as authorized by G.S. §160A-446 (g).

(2) *In rem remedy.* After the failure of an owner of a commercial structure to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) above, the inspector shall submit to the Town Board of Commissioners an ordinance ordering the inspector to cause the commercial structure to be removed or demolished, as provided in the original order of the 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 inspector shall have the right, within thirty (30) days after issuance of the order, to petition the Superior Court for a temporary injunction restraining the inspector pending a final deposition of the cause, as provided by G.S. §160A-446(f).  
(Ord. passed 8-17-93)

**§ 155.06 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

Complaints or orders issued by the inspector shall be served on persons either personally or by registered or certified mail, but if the whereabouts of the persons are unknown and cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, and the serving of the complaint or order on the person may be made by publication in a newspaper having general circulation in the Town at least once, no later than the time at which personal service is required under §155.05. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order. (Ord. passed 8-17-93)

**§ 155.07 IN REM ACTION BY INSPECTOR; PLACARDING.**

After failure of an owner of a commercial structure to comply with an order of the inspector issued pursuant to the provisions of this chapter and upon adoption by the Town Board of Commissioners of an ordinance authorizing and directing the inspector to do so, as provided by G.S. §160A-443(5) and §155.05(C), the inspector shall proceed to cause the commercial structure to either be repaired, removed, or demolished, as directed by the ordinance of the Town Board of Commissioners and shall cause to be posted on the main entrance of the commercial structure a placard prohibiting the use or occupation of the commercial structure. Use or occupation of the building so posed shall constitute a misdemeanor. Each such ordinance shall be recorded in the office of the register of deeds of Franklin County, and shall be indexed in the name of the property owner in the grantor index as provided by G.S. §160A-443(5). (Ord. passed 8-17-93)

**§ 155.08 COSTS A LIEN ON PREMISES.**

As provided by G. S. §160A-446(6), the amount of cost of any removal or demolition caused to be made or done by the inspector pursuant to this chapter shall be a lien against the real property on 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. Art 10, Ch. 160A. (Ord. passed 8-17-93)

**§ 155.09 ALTERNATIVE REMEDIES.**

Neither this chapter nor any provisions of those sections shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce those sections by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. (Ord. passed 8-17-93)