

CHAPTER 152: HOUSING CODE

HOUSING CODE:

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§ 152.01 CODE ADOPTED.

Pursuant to the provisions of N.C.G.S. §§160D-1201 through 160D-1212, and as provided generally in §150.01, one copy of which is on file in the office of the City Clerk, is hereby adopted as the Housing Code of the city; provided that, if any provision, standard or requirement of this chapter is found to be in conflict with any other section of this chapter or any provision of any other city ordinance, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the city shall prevail.

§ 152.02 DEFINITIONS.

Building shall mean any structure or part thereof not a dwelling.

Dwelling shall mean any structure or part thereof, which is used or intended to be used for human habitation, except that it does not include any recreational vehicle or camper.

Habitable Room shall mean a room or space used for living, sleeping, eating or cooking but does not include bathrooms, laundry rooms, halls, closets and storage spaces.

Inspector shall mean the Code Enforcement Officer or Building Inspector of the City of Kings Mountain.

Occupant shall mean any person living, sleeping, cooking or eating in or having actual possession of a dwelling.

Owner shall mean the holder of the title in fee simple and every mortgage, judgement and lien holder of record.

Parties in Interest shall mean all persons who have interests of record in a dwelling.

Unfit for Human Habitation shall mean that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards established by this chapter.

Vacated and Closed shall mean a dwelling which lacks the habitual presence of persons who have a legal right to be on the premises or at which substantially all occupancy has ceased and one or more windows or exterior doors have been boarded up to prevent ingress of the structure.

§ 152.03 FINDINGS OF FACT.

It is found as a fact that there exists within the planning and development regulation jurisdiction of the city dwellings which are unfit for human habitation due to dilapidation, defects increasing hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, and due to other conditions rendering the dwelling unsafe, unsanitary, dangerous or detrimental to the health, safety or morals, or otherwise detrimental to the welfare of the residents of the planning and development regulation jurisdiction of the city.

§ 152.04 INSPECTOR; DUTIES, POWERS AND THE LIKE.

(A) The inspector shall have the powers as may be necessary, lawful or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers and duties in addition to others herein granted:

(1) To investigate and examine dwellings and building conditions in order to determine which dwellings therein are unfit for human habitation, which dwellings and buildings are dangerous, and for the purpose of carrying out the objectives of this chapter with respect to the repair, closing or demolition of such dwellings and buildings;

(2) To enter upon and within premises, dwellings and buildings for the purpose of making examinations and inspections; provided that, the entry shall be lawful and made in a manner as to cause the least possible inconvenience to the persons in possession;

(3) To obtain, serve, and execute administrative inspection warrants;

(4) To administer oaths and affirmations, examine witnesses and receive evidence;

(5) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the standards as set forth in §152.13; and

(6) To appoint and fix the duties of the officers, agents and employees as deemed necessary to assist in carrying out the provisions of this chapter, and to delegate functions and powers to such officers, agents and employees.

(B) For the purpose of making inspections, the inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, buildings and the premises associated therewith. The owner or occupant of every dwelling and building or the person in charge thereof shall give the inspector free access to such dwelling and building and its premises at all reasonable times for the purposes of such inspection, examination and survey.

§ 152.05 NOTICE TO REPAIR AND THE LIKE; HEARING.

(A) Whenever a petition is filed with the inspector by a public authority or by at least five residents of the jurisdiction charging that any dwelling is unfit for human habitation; or whenever it appears to the inspector, on the inspector's own motion, that any dwelling is unfit for human habitation; the inspector shall, if the inspectors preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties in interest in the dwelling a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place within the planning and development regulation jurisdiction in which the property is located therein fixed not less than 10 days, nor more than 30 days, after the service of the complaint.

(B) The owner or parties in interest shall be given 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. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

§ 152.06 ORDER TO REPAIR AND THE LIKE; CONTENTS; FAILURE TO COMPLY.

(A) If after the notice and hearing, the inspector determines that the dwelling under consideration is unfit for human habitation, the inspector shall state in writing the inspector's findings of fact in support of the determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the dwelling can be made at a cost of not more than 50 percent of the current value of the dwelling, the order shall require the owner, within the time specified therein, to repair, alter or improve the dwelling so as to render it fit for human habitation; or

(2) If the repair, alteration or improvement of the dwelling cannot be made at a cost equal to or less than 50 percent of the current value of the dwelling, the order shall require the owner, within the time specified, to repair, alter or improve the dwelling so as to render it fit for human habitation or demolish and remove the dwelling.

(3) In emergency cases where it reasonably appears there is immediate danger to life or safety of any person or to the safety of other property, unless a dwelling or building as herein described is immediately repaired or demolished, the inspector shall cause immediate repair or demolition of such dwelling or building and the cost of such repair or demolition shall be recovered and collected as is provided in section §152.07.

(4) If the inspector determines that the continued occupancy of the dwelling during the time allowed for repairs, alterations, or improvements will present a significant threat to life or safety of any person or to the safety of other property, considering the current state of the property; the inspector may order the dwelling to be vacated and cause to be posted on the main entrance thereof a placard with the following words, "*THIS DWELLING IS UNFIT FOR HUMAN HABITATION; THE USE OR OCCUPATION OF THIS DWELLING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL.*" Occupation of a dwelling so posted shall constitute a Class 1 misdemeanor.

(B) (1) If the owner of any dwelling declared to be unfit for human habitation shall fail to comply with the order described in division (A)(1) above, the inspector may cause the dwelling to be repaired, altered or improved or to be vacated and closed. In the event, the inspector may cause to be posted on the main entrance thereof a placard with the following words, "*THIS DWELLING IS UNFIT FOR HUMAN HABITATION; THE USE OR OCCUPATION OF THIS DWELLING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL.*" Occupation of a dwelling so posted shall constitute a Class 1 misdemeanor.

(2) If the owner fails to comply with the order described in division (A)(2) above, the inspector may cause the dwelling to be demolished and removed. The duties of the inspector set forth in this division, shall not be exercised until the governing body shall have by ordinance ordered the inspector to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with this chapter. The ordinance shall be recorded in the office of the County Register of Deeds in the county in which the land is situated and shall be indexed in the name of the property owner in the grantor index.

(C) If any occupant fails to comply with an order to vacate a dwelling or building, the inspector may file a civil action in the name of the city to remove such occupant. The action to vacate the dwelling or building shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling or building.

§ 152.07 COST OF ABATEMENT DECLARED TAX LIEN.

The amount of the cost of repairs, alterations or improvements, or of vacating and closing, or removal or demolition by the inspector shall be a lien against the real property upon which the cost was incurred; and the lien shall be recorded in the office of Clerk of the Superior Court of the county. The cost shall also be placed upon the city's tax books against the property and may be collected and the lien may be foreclosed in the same manner as taxes and tax liens are collected and foreclosed or by suit as the city may determine.

§ 152.08 SALE OF MATERIALS.

If the dwelling is removed or demolished by the inspector, the inspector shall sell the materials of the dwelling and any personal property, fixture or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining shall be deposited in the Superior Court of the county by the inspector, shall be secured in a manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto. Nothing in this section shall be construed to impair or limit, in any way, the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

§ 152.09 FAILURE TO SERVE NOTICE; EFFECT.

Willful failure on the part of any owner or party in interest to receive or have served upon the person any complaint, notice or order herein provided for shall not affect or invalidate the proceedings with respect to any owner or party in interest or any other person.

§ 152.10 APPEAL.

Any person aggrieved by an order issued by the inspector or a decision rendered by the governing body may petition the Superior Court for an injunction restraining the inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the inspector pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearing shall be had by the court on a petition within 20 days, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issue raised and shall enter the final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this section.

§ 152.11 DECLARATION OF NUISANCE.

If any order issued and served in accordance with this chapter is not complied within the time specified therein, the dwelling with respect to which the order has been issued is hereby declared to be a public nuisance, and it shall be unlawful for any person who has knowledge of the issuance of the order to occupy as a human habitation, or use the dwelling, or any part thereof, or to suffer or permit same, or any part thereof, to be occupied as a human habitation or used therefor. Any person lawfully convicted of violating this chapter or failing to comply therewith shall be guilty of a misdemeanor and each day that any violation or failure to comply continues or is allowed to continue shall constitute and be a separate and distinct offense.

§ 152.12 SERVICE OF PROCESS, COMPLAINTS.

Complaints, notices or orders issued by the inspector pursuant hereto shall be served upon persons either personally or certified mail. If the identities of any owners or the whereabouts of any 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, then the service of the complaint, notice or order upon the person may be made by publishing at least once in a newspaper having general circulation in the jurisdiction, service being deemed complete seven days after the date of last publication. A copy of any notice, complaint or order served by publication shall be posted in a conspicuous place on the premises affected by the notice, complaint or order on or before the date of the last publication. A copy of the complaint or order may also be filed by the inspector in the office of the Clerk of Superior Court of the county, as in cases of lis pendens notice, as provided by law.

§ 152.13 STANDARDS FOR DETERMINING UNFITNESS.

The inspector shall determine that a dwelling is unfit for human habitation if the inspector finds that conditions exist in a dwelling which violate or do not comply with one or more of the following:

(1) Walls, sill plates, joist, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged and shall not have holes or cracks which might admit rodents.

(2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(3) Foundation walls, piers or other foundation supports shall be maintained in such condition that they will not fail or collapse.

(4) Steps, landings, railings, guardrails, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(5) The roof, flashings, exterior walls, foundation walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weathertight, watertight and rodent proof.

(6) All exterior elements including siding, fascia, eaves, soffits, vent screenings, gutters and downspouts shall be complete, free from rot and decay and properly installed.

(7) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling.

(8) Interior walls, floors and ceilings of all rooms, closets and hallways shall be finished with suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness.

(9) Each dwelling shall be properly connected to a potable water supply and to a public sewer or other approved sewage disposal system.

(10) Each dwelling shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and water heater.

(11) Hot and cold water shall be provided to the kitchen sink, tubs, showers and lavatories.

(12) All plumbing fixtures and faucets shall be maintained in a state of good repair and in good working condition.

(13) All required plumbing fixtures shall be located within the dwelling. The bathroom shall be located in a room that affords privacy to the user.

(14) Plumbing drains, vents and sewage piping shall be maintained in proper sanitary working condition.

(15) Water supply piping shall be adequately protected from freezing.

(16) Extension cords shall not be a substitute for permanent wiring. Extension cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances.

(17) Laundry rooms and each bathroom shall contain at least one receptacle outlet.

(18) Each bedroom, bathroom and kitchen shall contain a ceiling or wall mounted light fixture controlled by a wall switch.

(19) Hallways, laundry rooms and similar rooms shall contain a ceiling or wall mounted light fixture controlled by either a wall switch or a pull chain.

(20) Every electrical outlet and fixture, and all electrical wiring and equipment shall be installed, maintained and connected to an approved source of electric power in accordance with the National Electrical Code.

(21) Every dwelling shall have a safe and properly installed means of providing heat to maintain a minimum temperature of 68 degrees Fahrenheit in all habitable rooms and bathrooms during ordinary winter days.

(22) All heating equipment, flue piping, duct, chimney liners, vents and fuel piping shall be maintained in a state of good repair, safe and good working condition.

(23) Unvented gas appliances are prohibited in bedrooms.

(24) Every habitable room shall have a window facing directly to the outdoors with a total openable area of window(s) to equal 8 percent or more of the floor area of the room served, unless mechanical means of ventilation are provided.

(25) Each bathroom shall have an operable window or be provided with an approved mechanical exhaust system.

(26) Clothes dryer exhaust duct shall terminate independently to the exterior.

(27) Attics and crawl spaces shall be properly ventilated.

(28) Minimum ceiling height in habitable rooms and hallways shall be 7'. All other rooms and spaces shall have a minimum ceiling height of 6'-8". Rooms with sloped ceilings shall have a minimum ceiling height of 7' for at least fifty percent of the required floor area of that room.

(29) All required egress doors and windows shall be unobstructed and readily openable from the inside.

(30) Each bedroom shall contain an egress door with direct access to the exterior or an emergency escape egress window in accordance with the applicable building code.

(31) Smoke detectors and carbon monoxide detectors shall be in proper working condition and located in accordance with the applicable building code.

(32) Exterior surfaces shall be resistant to deterioration or treated with a protective coating of paint, stain or other approved covering material and maintained in good repair to prevent deterioration.

(33) Skirting material shall be maintained free from broken or missing sections and securely attached to the structure and properly sized from the ground to the lower outside perimeter of the structure.

(34) All windows opening to the outside shall be adequately screened unless the room is served by an approved ventilating system. Screens shall not be torn and shall fit the window opening snugly. Screens shall not be permanently attached to the window frame or sash.

(35) All windows and doors shall be maintained in proper working condition and free of broken or missing panes of glass. Exterior doors and window openings shall not be boarded up unless otherwise approved by the inspector. Broken or missing panes shall be replaced with glass.

(36) Crawl spaces shall be kept free from trash and debris.

(37) Yards shall be graded so as to prevent the accumulation of stagnant water and to allow positive drainage away from the foundation of the dwelling.

(38) Extermination of insects, rodents and other pests within the dwelling is the responsibility of the owner and shall be conducted as needed.

(39) Detached garages, storage buildings and all other accessory structures to the dwelling shall be maintained and kept in good repair and sound structural condition.

§ 152.14 REGULATIONS FOR VACATED AND CLOSED DWELLINGS.

- (A) If a dwelling has been vacated and closed for a period of one year after an inspector has caused the dwelling to be vacated and closed as described in Section 152.06 (B)(1), the inspector may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be detrimental to the health, safety, and welfare of the community, threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, or would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in the area, then in such circumstances, the governing body may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:
- (1) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost of not more than 50 percent of the current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.
 - (2) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost equal to or less than 50 percent of the current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.
- (B) If a property owner causes a dwelling to be vacated and closed at their own discretion, the following provisions shall apply:
- (1) Vacated and closed dwellings shall be added to a Vacated and Closed Inventory, maintained by the Inspections and Codes Department.
 - (a) The owner shall give notice to the Inspections and Codes Department within 15 days after causing a dwelling to be vacated and closed.
 - (b) If a dwelling has been vacated and closed for a period exceeding 15 days and an owner has failed to notify the Inspections and Codes Department, the inspector shall cause the dwelling to be added to the Vacated and Closed Building Inventory. The inspector shall serve a written notice to the owner stating that the dwelling has been added to the Vacated and Closed Building Inventory and that the provisions of Section 152.14 (B)(2) and 152.14 (B)(3) will be enforced.
 - (c) Any owner who has vacated and closed a dwelling prior to the effective date of this chapter shall comply with the regulations contained herein within 30 days after the effective date of this chapter. If after 30 days, an owner has failed to notify the Inspections and Codes Department and have their property added to the Vacated and Closed Building Inventory, the inspector shall cause the dwelling to be added to the Vacated and Closed Building Inventory. The inspector shall serve a written notice to the owner stating that the dwelling has been added to the Vacated and Closed Building Inventory and that the provisions of Section 152.14 (B)(2) and 152.14 (B)(3) will be enforced.
 - (2) The materials and methods used for vacating and closing the dwelling shall be:

- (a) Plywood or (OSB) oriented strand board cut to tightly fit over the window and door openings, flush with the outside of the trim molding.
 - (b) Securely attach plywood or (OSB) oriented strand board to the frame of the opening with screws placed 12" on center around the perimeter of the plywood or oriented strand board.
 - (c) Plywood or (OSB) oriented strand boards shall be painted black using an exterior grade paint.
- (3) Any time after six months from the date that the dwelling has been added to the Vacated and Closed Building Inventory the inspector determines that the owner or agent thereof is not actively working, with visible progress being made to repair, alter, improve or demolish the dwelling, or a dwelling has been closed and vacated for a period greater than one year, the inspector may find that the owner has abandoned the intent and purpose to repair, alter, improve or demolish the dwelling. In the event, the inspector shall issue and cause to be served upon the owner thereof an order requiring the owner, within the time specified therein, to remove any material which has been placed over window and exterior door openings.

§ 152.15 CIVIL PENALTY.

(A) Inspectors are empowered to issue citations to the owner of any property in violation of this chapter. A civil penalty of \$50.00 will be charged for each day a violation continues to exist after the time specified by the inspector on an order has expired and will continue to accumulate until compliance has occurred up to a maximum penalty of \$500.00. The civil penalty shall be paid within 30 days after the issue date of a statement of charges. The city may take one of the following courses of action to collect an unpaid civil penalty:

- (1) The city may institute a civil action in the nature of a debt in the appropriate division of the General Court of Justice for the collection of the civil penalty, attorney fees, and other such relief as provided in N.C.G.S. 160A-175.
- (2) A lien may be levied against the property owner for the cost of the citation fee as provided by the authority of the city.