

## **CHAPTER 152: NONRESIDENTIAL BUILDING MAINTENANCE CODE**

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### **§ 152.20 CODE ADOPTED.**

Pursuant to the provisions of N.C.G.S. §§160D-1118 through 160D-1125, 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 Nonresidential Building Maintenance 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 public health, safety or general welfare shall prevail.

### **§ 152.21 DEFINITIONS.**

*Building* shall mean any structure used or intended for supporting or sheltering any use or occupancy.

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

*Occupant* shall mean any person who is a tenant or has actual possession of a building or structure.

*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 individuals, associations, and corporations who have interest of record in a nonresidential building or structure and any who are in possession thereof.

*Structure* shall mean anything which is constructed or placed upon a property which is supported by the ground or which is supported by any other structure.

*Vacant Industrial Warehouse* shall mean any building or structure that was previously used for the storage of goods or equipment in connection with manufacturing processes, that has not been used for that purpose for at least one year, and that has not been converted to another use.

*Vacant Manufacturing Facility* shall mean any building previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year, and has not been converted to another use.

*Vacated and Closed* shall mean a building 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 building.

## **§ 152.22 FINDINGS OF FACT.**

It is found as a fact that there are or may exist nonresidential buildings and structures that are detrimental to the public health, safety, morals, and welfare as a result of their failure to meet the standards of maintenance, sanitation, or safety as set forth herein.

## **§ 152.23 INTENT.**

The intent of this chapter is to establish minimum standards of maintenance, sanitation, and safety for nonresidential buildings and structures, in order to address conditions that are or may be detrimental to the public health, safety, morals, and welfare. The provisions of this chapter shall apply to all buildings and structures or parts thereof, which are used or intended to be used for nonresidential purposes within the corporate limits of the city.

## **§ 152.24 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 nonresidential buildings and structures in order to determine whether they have been properly maintained in compliance with the minimum standards as set forth in §152.33 and for the purpose of carrying out the objectives of this chapter with respect to the repair, closing or demolition of such buildings and structures;

(2) To enter upon and within premises, buildings, and structures 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 buildings and structures that do not meet the standards as set forth in §152.33; 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 buildings, structures and the premises associated therewith. The owner or occupant of every building or structure or the person in charge thereof shall give the inspector free access to such building or structure and its premises at all reasonable times for the purposes of such inspection, examination and survey.

### **§ 152.25 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 city or whenever it appears to the inspector, on the inspector's own motion, that any nonresidential building or structure has not been properly maintained and that the safety or health of its occupants or general public is jeopardized due to failure of the property to meet the minimum standards as set forth in §152.33, 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 nonresidential building or structure a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place within the city 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.

### **§ 152.26 ORDER TO REPAIR AND THE LIKE; CONTENTS; FAILURE TO COMPLY.**

(A) If after the notice and hearing, the inspector determines that the building or structure under consideration does not meet one or more of the minimum standards as set forth in §152.33, 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 building or structure can be made at a cost of not more than 50 percent of the current value of the building or structure, the order shall require the owner, within the time specified therein, to repair, alter or improve the building or structure to bring it into compliance with the minimum standards of this chapter; or

(2) If the repair, alteration or improvement of the building or structure cannot be made at a cost equal to or less than 50 percent of the current value of the building or structure, the order shall require the owner, within the time specified, to repair, alter or improve the building or structure to bring it into compliance with the minimum standards of this chapter or demolish and remove the building or structure.

(3) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or

structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(4) 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 nonresidential building or structure as herein described is immediately repaired or demolished, the inspector shall cause immediate repair or demolition of such building or structure and the cost of such repair or demolition shall be recovered and collected as is provided in §152.27.

(5) If the inspector determines that the continued use or occupancy of a nonresidential building 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 building to be vacated and cause to be posted on the main entrance thereof a placard with the following words, *"THIS BUILDING IS UNFIT FOR ANY USE; THE USE OR OCCUPATION OF THIS BUILDING FOR ANY PURPOSE IS PROHIBITED AND UNLAWFUL."* Use or occupation of a building so posted shall constitute a Class 3 misdemeanor.

(B) (1) If the owner of any building or structure declared to be in violation of this chapter shall fail to comply with the order described in division (A)(1) above, the inspector may cause the building or structure to be repaired, altered or improved or to be vacated and closed.

(2) If the owner fails to comply with the order described in division (A)(2) above, the inspector may cause the building or structure 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 in violation of this chapter and which property or properties shall be described in the ordinance. No ordinance shall be adopted to require demolition of a building or structure 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 person fails to comply with an order to vacate a building, the inspector may file a civil action in the name of the city to remove such person. The action to vacate the building shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such building.

#### **§ 152.27 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.

### **§ 152.28 SALE OF MATERIALS.**

If the building or structure is removed or demolished by the inspector, the inspector shall sell the materials of the building or structure and any personal property, fixture or appurtenances found in or attached to such, 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.

### **§ 152.29 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.

### **§ 152.30 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.

### **§ 152.31 DECLARATION OF NUISANCE.**

If any order issued and served in accordance with this chapter is not complied within the time specified therein, the building or structure 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 use or occupy the building or structure, or any part thereof, or to suffer or permit same, or any part thereof, to be occupied 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.

### **§ 152.32 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 city, 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.

### **§ 152.33 STANDARDS AND RESPONSIBILITIES.**

The parties in interest of nonresidential buildings and structures shall have responsibility for and shall ensure that such buildings and structures under their ownership or control are maintained in compliance with the following minimum standards of maintenance, sanitation, and safety:

- (1) Foundation walls, piers, or other foundation supports shall be structurally sound and capable of bearing loads safely.
- (2) Walls, sill plates, joists, rafters, or other structural members shall not list, lean, or buckle to such an extent as to render the building unsafe, and shall not be rotted, deteriorated or damaged, or have holes or cracks which might admit rodents.
- (3) Exterior walls shall be structurally sound, properly supported, free from defects and damage, and capable of bearing imposed loads safely.
- (4) Floors or roofs shall not have improperly distributed loads, which are overloaded, or have insufficient strength to be reasonable safe for the purpose used. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used. Roofs shall be kept structurally sound and shall be maintained in such a manner so as to prevent rain or other objects from penetrating into the interior of the building.
- (5) Buildings shall be free from dilapidation, decay, unsanitary conditions, or disrepair, which is dangerous to the health and safety of the occupants or general public.
- (6) Buildings and structures shall be free from damage by fire, wind, or other causes as to render the building unsafe.
- (7) Exterior surfaces shall be maintained in good repair and shall not be rotted, deteriorated, or damaged. All exposed exterior wood surfaces shall be painted or sealed to protect the underlying surface from deterioration. All exterior surfaces that have been painted shall be maintained free of peeling and flaking paint. Where 50 percent or more of the aggregate area of any painted surface has peeling, flaking or previous paint worn away, the entire surface shall be repainted in order to prevent further deterioration.
- (8) The exterior of buildings and structures shall be maintained free of loose shingles, loose wood, loose cornices, crumbling stucco, stone, or brick, or other loose and insufficiently anchored objects which constitute a danger of falling on persons or property.

(9) All exterior windows and doors shall be tight fitting, have sashes of proper size and design, free of rotten wood, broken joints, or broken or loose mullions. All exterior windows and doors shall be maintained free of broken, cracked, or missing panes.

(10) All exterior openings originally designed as windows or doors shall be maintained, unless the inspector approves the enclosure of such opening in a manner that appropriately fills the space and is weatherproof.

(11) All exterior doors or other pedestrian or service openings shall be maintained in good repair, capable of being safely secured, and have appropriately designed and installed doors.

(12) Gutters and downspouts shall be securely installed and located in a manner that does not create a hazard to pedestrians, vehicular traffic, or adjacent property.

(13) There are no objects or elements on or protruding from building walls, roofs, or the surrounding premises, such as electrical boxes, conduits, wires, open pipes, or unused sign brackets which constitute potential safety hazards.

(14) Exterior porches, landings, balconies, stairs, ramps, or fire escapes shall be properly maintained, structurally sound, and free of defects. Banisters and railings shall be designed and maintained to minimize the hazard of falling.

(15) Exterior walls that have become exposed as a result of the demolition of adjacent buildings; such wall shall have all doors, windows, vents, or similar openings closed with material of the same type comprising the wall and the exposed wall shall be painted, stuccoed, or bricked and sufficiently weatherproofed to prevent deterioration of the wall.

(16) Buildings and structures including their premises shall not have insufficiently protected holes, excavations, breaks, projections, obstructions, and other such dangerous impediments on or around walkways, driveways, parking lots, alleyways, and other areas which are accessible to and used by persons on or around the premises.

(17) All interior wall, floor, and ceiling covering materials are in good condition and compatible with the intended use and in a manner that does not constitute an unsanitary or hazardous condition.

(18) Interior stairs, landing, and ramps shall be properly maintained and structurally sound.

(19) Buildings shall be free of inadequate ventilation, lighting, heating, or sanitary facilities to such extent as to endanger the health, safety, or general welfare of the occupants or the general public.

(20) All electrical, HVAC, and plumbing systems shall be installed and maintained in a condition that does not create a health or safety hazard.

(21) Chimneys, flues, and vent attachments shall be maintained in a structurally sound condition, are durable, are smoke tight, are capable of withstanding the action of flue gases, and provide sufficient draft.

(22) All unoccupied or vacant buildings and structures shall be secured to prevent entry by unauthorized persons and to prevent occurrences of activities not permitted by law.

## **§ 152.34 REGULATIONS FOR VACATED AND CLOSED BUILDINGS.**

(A) If a building has been vacated and closed for a period of two years after an inspector has caused the building to be vacated and closed as described in Section 152.26 (B)(1), the inspector may find that the owner has abandoned the intent and purpose to repair, alter, or improve the building and that the continuation of the building in its vacated and closed status would be inimical to the health, safety, and welfare of the city in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the governing board may, after the expiration of the two 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 building to bring it into compliance with the minimum standards of this chapter can be made at a cost of not more than 50 percent of the current value of the building, the ordinance shall require that the owner either repair or demolish and remove the building within 90 days.
- (2) If it is determined that the repair of the building to bring it into compliance with the minimum standards of this chapter cannot be made at a cost equal to or less than 50 percent of the current value of the building, the ordinance shall require the owner to demolish and remove the building within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building must have been vacated and closed for a period of five years after the inspector has caused the building to be vacated and closed as described in Section 152.26 (B)(1) before the governing board may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the inspector shall effectuate the purpose of the ordinance.

(B) If a property owner causes a building to be vacated and closed at their own discretion, the following provisions shall apply:

- (1) Vacated and closed buildings 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 building to be vacated and closed.
  - (b) If a building 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 building to be added to the Vacated and Closed Building Inventory. The inspector shall serve a written notice to the owner stating that the building has been added to the Vacated and Closed Building Inventory and that the provisions of Section 152.34 (B)(2) and 152.34 (B)(3) will be enforced.
  - (c) Any owner who has vacated and closed a building 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 building to be added to the Vacated and Closed Building Inventory. The inspector shall serve a written notice to the owner stating that the building has been added to the Vacated and Closed Building Inventory and that the provisions of Section 152.34 (B)(2) and 152.34 (B)(3) will be enforced.

- (2) The materials and methods used for vacating and closing the building 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 building 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 building, or a building 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 building. 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.

#### **§ 152.35 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.