

## Article 11.

### Building Code Enforcement.

#### **§ 160D-1101. Definitions.**

As used in this Article, the following terms shall have their ordinary meaning and shall also be read to include the following:

- (1) Building or buildings. – Includes other structures.
- (2) Governing board or board of commissioners. – Includes the Tribal Council of a federally recognized Indian tribe.
- (3) Local government. – Includes a federally recognized Indian tribe, and, as to such tribe, includes lands held in trust for the tribe.
- (4) Public officer. – Includes the officer or officers who are authorized by regulations adopted hereunder to exercise the powers prescribed by the regulations and by this Article. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

#### **§ 160D-1102. Building code administration.**

A local government may create an inspection department and may appoint inspectors who may be given appropriate titles, such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, or deputy or assistant inspector, or such other titles as may be generally descriptive of the duties assigned. Every local government shall perform the duties and responsibilities set forth in G.S. 160D-1105 either by (i) creating its own inspection department, (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to G.S. 160D-1105 or Part 1 of Article 20 of Chapter 160A of the General Statutes, (iii) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, or (iv) arranging for the county in which a city is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160D-1105 and G.S. 160D-202.

In the event that any local government fails to provide inspection services or ceases to provide such services, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by the department or through an arrangement with other units of government. In either event, the Commissioner shall have and may exercise within the local government's planning and development regulation jurisdiction all powers made available to the governing board with respect to building inspection under this Article and Part 1 of Article 20 of Chapter 160A of the General Statutes. Whenever the Commissioner has intervened in this manner, the local government may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention to do so; provided, however, that the Commissioner may waive this requirement or permit assumption at an earlier date upon finding that such earlier assumption will not unduly interfere with arrangements made for the provision of those services. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

#### **§ 160D-1103. Qualifications of inspectors.**

No local government shall employ an inspector to enforce the State Building Code who does not have one of the following types of certificates issued by the North Carolina Code Officials

Qualification Board attesting to the inspector's qualifications to hold such position: (i) a probationary certificate, (ii) a standard certificate, or (iii) a limited certificate which shall be valid only as an authorization to continue in the position held on the date specified in G.S. 143-151.13(c) and which shall become invalid if the inspector does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. 143-151.13(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

**§ 160D-1104. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within their planning and development regulation jurisdiction State and local laws relating to the following:

- (1) The construction of buildings and other structures.
- (2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems.
- (3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition.
- (4) Other matters that may be specified by the governing board.

(b) The duties and responsibilities set forth in subsection (a) of this section include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The governing board has the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(c) In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

(d) Except as provided in G.S. 160D-1117 and G.S. 160D-1207, a local government may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a local government and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the local government to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Residential Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails

to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

(e) Each inspection department shall implement a process for an informal internal review of inspection decisions made by the department's inspectors. This process shall include, at a minimum, the following:

- (1) Initial review by the supervisor of the inspector.
- (2) The provision in or with each permit issued by the department of (i) the name, phone number, and e-mail address of the supervisor of each inspector and (ii) a notice of availability of the informal internal review process.
- (3) Procedures the department must follow when a permit holder or applicant requests an internal review of an inspector's decision.

Nothing in this subsection limits or abrogates any rights available under Chapter 150B of the General Statutes to a permit holder or applicant.

(f) **(Expires October 1, 2021 – see note)** If a specific building framing inspection as required by the North Carolina Residential Code for One- and Two-Family Dwellings results in 15 or more separate violations of that Code, the inspector shall forward a copy of the inspection report to the Department of Insurance. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 28(a), (b), 51(a), (b), (d).)

#### **§ 160D-1105. Other arrangements for inspections.**

A local government may contract with an individual who is not a local government employee but who holds one of the applicable certificates as provided in G.S. 160D-1103 or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160D-1103. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

#### **§ 160D-1106. Alternate inspection method for component or element.**

(a) Notwithstanding the requirements of this Article, a local government shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from an architect licensed under Chapter 83A of the General Statutes or professional engineer licensed under Chapter 89C of the General Statutes provided all of the following apply:

- (1) When required by the North Carolina State Building Code, the submission design or other proposal is completed under valid seal of the licensed architect or licensed professional engineer.
- (2) Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.
- (3) The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the local government with a signed written document certifying that the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The certification required under this subdivision shall be provided by electronic or physical delivery, [and] its receipt

shall be promptly acknowledged by the local government through reciprocal means. The certification shall be made on a form created by the North Carolina Building Code Council which shall include at least the following:

- a. Permit number.
- b. Date of inspection.
- c. Type of inspection.
- d. Contractor's name and license number.
- e. Street address of the job location.
- f. Name, address, and telephone number of the person responsible for the inspection.

(a) In accepting certifications of inspections under subsection (a) of this section, a local government shall not require information other than that specified in this section.

(b) Upon the acceptance and approval receipt of a signed written document by the local government as required under subsection (a) of this section, notwithstanding the issuance of a certificate of occupancy, the local government, its inspection department, and the inspectors are discharged and released from any liabilities, duties, and responsibilities imposed by this Article with respect to or in common law from any claim arising out of or attributed to the component or element in the construction of the building for which the signed written document was submitted.

(c) With the exception of the requirements contained in subsection (a) of this section, no further certification by a licensed architect or licensed professional engineer is required for any component or element designed and sealed by a licensed architect or licensed professional engineer for the manufacturer of the component or element under the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) As used in this section, the following definitions apply:

- (1) Component. – Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete, a foundation, and a prepared underslab with slab-related materials without concrete. The term does not include a system.
- (2) Element. – A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 29, 51(a), (b), (d); 2020-74, s. 31.)

#### **§ 160D-1107. Mutual aid contracts.**

(a) Any two or more cities or counties may enter into contracts with each other to provide mutual aid and assistance in the administration and enforcement of State and local laws pertaining to the North Carolina State Building Code. Mutual aid contracts may include provisions addressing the scope of aid provided, for reimbursement or indemnification of the aiding party for loss or damage incurred by giving aid, for delegating authority to a designated official or employee to request aid or to send aid upon request, and any other provisions not inconsistent with law.

(b) Unless the mutual aid contract says otherwise, while working with the requesting city or county under the authority of this section, a Code-enforcement official shall have the same jurisdiction, powers, rights, privileges, and immunities, including those relating to the defense of civil actions and payment of judgments, as the Code-enforcement officials of the requesting agency.

(c) Nothing in this section shall be construed to deprive any party to a mutual aid contract under this section of its discretion to send or decline to provide aid to another party to the contract under any circumstances, whether or not obligated by the contract to do so. In no case shall a party to a mutual aid contract or any of its officials or employees be held to answer in any civil or criminal action for declining to send aid whether or not obligated by contract to do so. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

**§ 160D-1108. Conflicts of interest.**

Staff members, agents, or contractors responsible for building inspections shall comply with G.S. 160D-109(c). No member of an inspection department shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the local government's planning and development regulation jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of an inspection department or other individual or an employee of a company contracting with a local government to conduct building inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government. The local government must find a conflict of interest if any of the following is the case:

- (1) If the individual, company, or employee of a company contracting to perform building inspections for the local government has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.
- (2) If the individual, company, or employee of a company contracting to perform building inspections for the local government is closely related to the owner, developer, contractor, or project manager of the project to be inspected.
- (3) If the individual, company, or employee of a company contracting to perform building inspections for the local government has a financial or business interest in the project to be inspected.

The provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

**§ 160D-1109. Failure to perform duties.**

(a) If any member of an inspection department shall willfully fail to perform the duties required by law, or willfully shall improperly issue a building permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, the member shall be guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the local government, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed

engineer in accordance with G.S. 160D-1104(d). (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

**§ 160D-1110. Building permits.**

(a) Except as provided in subsection (c) of this section, no person shall commence or proceed with any of the following without first securing all permits required by the State Building Code and any other State or local laws applicable to any of the following activities:

- (1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.
- (2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit is not required for the connection of a water heater that is being replaced if (i) the work is performed by a person licensed under G.S. 87-21 who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and (ii) the energy use rate or thermal input is not greater than that of the water heater that is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.
- (3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.
- (4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit a permit is not required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced if all of the following requirements are met:
  - a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.
  - b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.
  - c. The work is performed by a person licensed under G.S. 87-43.
  - d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

However, a building permit is not required for the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87 of the General Statutes. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subsection applies to all existing installations.

(b) A building permit shall be in writing and shall contain a provision that the work done shall comply with the North Carolina State Building Code and all other applicable State and local laws. Nothing in this section requires a local government to review and approve residential building plans submitted to the local government pursuant to the North Carolina Residential Code, provided that the local government may review and approve the residential building plans as it deems necessary. If a local government chooses to review residential building plans for any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings, all initial reviews for the building permit must be performed within 15 business days of submission of the plans. A local government shall not require residential building plans for one- and two-family dwellings to be sealed by a licensed engineer or licensed architect unless required by the North Carolina State Building Code. No building permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and, if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no building permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance or development or zoning regulation requires that work be done by a licensed specialty contractor of any kind, no building permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(c) No permit issued under Article 9 or 9C of Chapter 143 of the General Statutes is required for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code costing fifteen thousand dollars (\$15,000) or less in any single-family residence or farm building unless the work involves any of the following:

- (1) The addition, repair, or replacement of load-bearing structures. However, no permit is required for replacement of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks.
- (2) The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.
- (3) The addition, replacement, or change in the design of heating, air-conditioning, or electrical wiring, devices, appliances, or equipment, other than like-kind replacement of electrical devices and lighting fixtures.
- (4) The use of materials not permitted by the North Carolina Residential Code for One- and Two-Family Dwellings.
- (5) The addition (excluding replacement) of roofing.

(d) A local government shall not require more than one building permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the building permit for such work shall not exceed the cost of any one individual trade permit issued by that local government, nor shall the local government increase the costs of any fees to offset the loss of revenue caused by this provision.

(e) No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity, as defined in G.S. 113A-52(6), or for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan for the site of the activity or a

tract of land including the site of the activity has been approved under the Sedimentation Pollution Control Act.

(f) No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity that is subject to, but does not comply with, the requirements of G.S. 113A-71.

(g) No building permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is thirty thousand dollars (\$30,000) or more.

(h) No local government may withhold a building permit or certificate of occupancy that otherwise would be eligible to be issued under this section to compel, with respect to another property or parcel, completion of work for a separate permit or compliance with land-use regulations under this Chapter unless otherwise authorized by law or unless the local government reasonably determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy.

(i) Violation of this section constitutes a Class 1 misdemeanor. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 30, 51(a), (b), (d).)

#### **§ 160D-1111. Expiration of building permits.**

A building permit issued pursuant to this Article shall expire by limitation six months, or any lesser time fixed by ordinance of the city council, after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any building permit that has expired shall thereafter be performed until a new permit has been secured. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

#### **§ 160D-1112. Changes in work.**

After a building permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the inspection department. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

#### **§ 160D-1113. Inspections of work in progress.**



Subject to the limitation imposed by G.S. 160D-1104(d), as the work pursuant to a building permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 31, 51(a), (b), (d).)

**§ 160D-1114. Appeals of stop orders.**

(a) The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the local inspector. The Commissioner of Insurance or his or her designee shall promptly conduct an investigation, and the appellant and the inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his or her designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his or her designee on an appeal, no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the following options:

- (1) Appealing to the Building Code Council.
- (2) Appealing to the superior court as provided in G.S. 143-141.

(b) The owner or builder may appeal from a stop order involving alleged violation of a local development regulation as provided in G.S. 160D-405. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

**§ 160D-1115. Revocation of building permits.**

The appropriate inspector may revoke and require the return of any building permit by notifying the permit holder in writing stating the reason for the revocation. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any building permit mistakenly issued in violation of an applicable State or local law may also be revoked. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

**§ 160D-1116. Certificates of compliance; temporary certificates of occupancy.**

(a) At the conclusion of all work done under a building permit, the appropriate inspector shall make a final inspection, and, if the completed work complies with all applicable State and local laws and with the terms of the permit, the inspector shall issue a certificate of compliance. Except as provided by subsection (b) of this section, no new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing

building that has been altered or moved may be occupied, until the inspection department has issued a certificate of compliance.

(b) A temporary certificate of occupancy may be issued permitting occupancy for a stated period of time of either the entire building or of specified portions of the building if the inspector finds that the building may safely be occupied prior to its final completion. A permit holder may request and be issued a temporary certificate of occupancy if the conditions and requirements of the North Carolina State Building Code are met.

(c) Any person who owns, leases, or controls a building and occupies or allows the occupancy of the building or a part of the building before a certificate of compliance or temporary certificate of occupancy has been issued pursuant to subsection (a) or (b) of this section is guilty of a Class 1 misdemeanor. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 32, 51(a), (b), (d).)

### **§ 160D-1117. Periodic inspections.**

The inspection department may make periodic inspections, subject to the governing board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its planning and development regulation jurisdiction. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-1207. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

### **§ 160D-1118. Defects in buildings to be corrected.**

When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be the inspector's duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

### **§ 160D-1119. Unsafe buildings condemned.**

(a) Designation of Unsafe Buildings. – Every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress, or other causes shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b) Nonresidential Building or Structure. – In addition to the authority granted in subsection (a) of this section, an inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets all of the following conditions:

- (1) It appears to the inspector to be vacant or abandoned.
- (2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, or fire or safety hazard, to be a danger

to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) Notice Posted on Structure. – If an inspector declares a nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of an urban progress zone under G.S. 143B-437.09, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the governing board as being in special need of revitalization for the benefit and welfare of its citizens.

(d) Applicability to Residential Structures. – A local government may expand subsections (b) and (c) of this section to apply to residential buildings by adopting an ordinance. Before adopting such an ordinance, a local government shall hold a legislative hearing with published notice as provided by G.S. 160D-601. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

#### **§ 160D-1120. Removing notice from condemned building.**

If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any local government and that states the dangerous character of the building or structure, that person shall be guilty of a Class 1 misdemeanor. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

#### **§ 160D-1121. Action in event of failure to take corrective action.**

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160D-1119 fails to take prompt corrective action, the local inspector shall give written notice, by certified mail to the owner's last known address or by personal service, of all of the following:

- (1) That the building or structure is in a condition that appears to meet one or more of the following conditions:
  - a. Constitutes a fire or safety hazard.
  - b. Is dangerous to life, health, or other property.
  - c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
  - d. Has a tendency to attract persons intent on criminal activities or other activities that would constitute a public nuisance.
- (2) That an administrative hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner will be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.
- (3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the local government's area of jurisdiction at least

once not later than one week prior to the hearing. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 33, 51(a), (b), (d).)

**§ 160D-1122. Order to take corrective action.**

If, upon a hearing held pursuant to the notice prescribed in G.S. 160D-1119, the inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, the inspector shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe, provided that where the inspector finds that there is imminent danger to life or other property, the inspector may order that corrective action be taken in such lesser period as may be feasible. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

**§ 160D-1123. Appeal; finality of order if not appealed.**

Any owner who has received an order under G.S. 160D-1122 may appeal from the order to the governing board by giving notice of appeal in writing to the inspector and to the local government clerk within 10 days following issuance of the order. In the absence of an appeal, the order of the inspector is final. The governing board shall hear an appeal in accordance with G.S. 160D-406 and render a decision within a reasonable time. The governing board may affirm, modify and affirm, or revoke the order. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 34, 51(a), (b), (d).)

**§ 160D-1124. Failure to comply with order.**

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160D-1122 from which no appeal has been taken or fails to comply with an order of the governing board following an appeal, the owner is guilty of a Class 1 misdemeanor. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 35, 51(a), (b), (d).)

**§ 160D-1125. Enforcement.**

(a) Action Authorized. – Whenever any violation is denominated a misdemeanor under the provisions of this Article, the local government, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Removal of Building. – In the case of a building or structure declared unsafe under G.S. 160D-1119 or an ordinance adopted pursuant to G.S. 160D-1119, a local government may, in lieu of taking action under subsection (a) of this section, cause the building or structure to be removed or demolished. The amounts incurred by the local government in connection with the removal or demolition are a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of Chapter 160A of the General Statutes. If the building or structure is removed or demolished by the local government, the local government shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The local government shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the

clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) **Additional Lien.** – The amounts incurred by a local government in connection with the removal or demolition are also a lien against any other real property owned by the owner of the building or structure and located within the local government's planning and development regulation jurisdiction, and for cities without extraterritorial planning and development jurisdiction, within one mile of the city limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

(d) **Nonexclusive Remedy.** – Nothing in this section shall be construed to impair or limit the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 36, 51(a), (b), (d).)

### **§ 160D-1126. Records and reports.**

The inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance or occupancy granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the Department of Natural and Cultural Resources. Periodic reports shall be submitted to the governing board and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

### **§ 160D-1127. Appeals.**

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws shall be taken to the Commissioner of Insurance or the Commissioner's designee or other official specified in G.S. 143-139 by filing a written notice with the Commissioner and with the inspection department within a period of 10 days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

### **§ 160D-1128. Fire limits.**

(a) **County Fire Limits.** – A county may by ordinance establish and define fire limits in any area within the county and not within a city. The limits may include only business and industrial areas. Within any fire limits, no frame or wooden building or addition thereto may be erected, altered, repaired, or moved, either into the fire limits or from one place to another within the limits, except upon the permit of the inspection department and approval of the Commissioner of Insurance. The governing board may make additional regulations necessary for the prevention, extinguishment, or mitigation of fires within the fire limits.

(b) **Municipal Fire Limits.** – The governing board of every incorporated city shall pass one or more ordinances establishing and defining fire limits, which shall include the principal business portions of the city and which shall be known as primary fire limits. In addition, the governing board may, in its discretion, establish and define one or more separate areas within the city as secondary fire limits.

(c) Restrictions Within Municipal Primary Fire Limits. – Within the primary fire limits of any city, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall hereafter be erected, altered, repaired, or moved, either into the limits or from one place to another within the limits, except upon the permit of the local inspection department approved by the governing board and by the Commissioner of Insurance or the Commissioner's designee. The governing board may make additional regulations for the prevention, extinguishment, or mitigation of fires within the primary fire limits.

(d) Restrictions Within Municipal Secondary Fire Limits. – Within any secondary fire limits of any city or town, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall be erected, altered, repaired, or moved, except in accordance with any rules and regulations established by ordinance of the areas.

(e) Failure to Establish Municipal Primary Fire Limits. – If the governing board of any city shall fail or refuse to establish and define the primary fire limits of the city as required by law, after having such failure or refusal called to their attention in writing by the State Commissioner of Insurance, the Commissioner shall have the power to establish the limits upon making a determination that they are necessary and in the public interest. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

**§ 160D-1129. Regulation authorized as to repair, closing, and demolition of nonresidential buildings or structures; order of public officer.**

(a) Authority. – The governing board of the local government may adopt and enforce regulations relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the governing board. The minimum standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The regulations shall provide for designation or appointment of a public officer to exercise the powers prescribed by the regulation, in accordance with the procedures specified in this section. Regulations adopted under this section shall be applicable within the local government's entire planning and development regulation jurisdiction or limited to one or more designated zoning districts, municipal service districts, or defined geographical areas designated for improvement and investment in an adopted comprehensive plan.

(b) Investigation. – Whenever it appears to the public officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

(c) Complaint and Hearing. – If the preliminary investigation discloses evidence of a violation of the minimum standards, the public officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the public officer, or his or her designated agent, at a place within the county scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or

otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity are not controlling in hearings before the public officer.

(d) Order. – If, after notice and hearing, the public officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(e) Limitations on Orders. –

(1) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the governing board or to vacate and close the nonresidential building or structure for any use.

(2) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the governing board determines, after an administrative hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing board.

(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.

(f) Action by Governing Board Upon Failure to Comply With Order. –

(1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated

and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed 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." Any person who occupies or knowingly allows the occupancy of a building or structure so posted is guilty of a Class 3 misdemeanor.

- (2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the governing board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.

(g) Action by Governing Board Upon Abandonment of Intent to Repair. – If the governing board has adopted an ordinance or the public officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government 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 the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.
- (2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years 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 public officer shall effectuate the purpose of the ordinance.



(h) Service of Complaints and Orders. – Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the local government at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(i) Liens. –

- (1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer are a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.
- (2) If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
- (3) If the nonresidential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing board to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(j) Ejectment. – If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the local government to remove the occupant. The action to vacate is in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subsection (f) of this

section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing board has ordered the public officer to proceed to exercise his or her duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

(k) Civil Penalty. – The governing board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties does not limit the use of any other lawful remedies available to the governing board for the enforcement of any ordinances adopted pursuant to this section.

(l) Supplemental Powers. – The powers conferred by this section are supplemental to the powers conferred by any other law. An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:

- (1) To investigate nonresidential buildings and structures in the local government's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.
- (2) To administer oaths, affirmations, examine witnesses, and receive evidence.
- (3) To enter upon premises pursuant to subsection (b) of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.
- (4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing board.
- (5) To delegate any of his or her functions and powers under the ordinance to other officers and agents.

(m) Appeals. – The governing board may provide that appeals may be taken from any decision or order of the public officer to the local government's housing appeals board or board of adjustment. Any person aggrieved by a decision or order of the public officer has the remedies provided in G.S. 160D-1208.

(n) Funding. – The governing board is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing board.

(o) No Effect on Just Compensation for Taking by Eminent Domain. – Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

- (p) Definitions. – As used in this section, the following definitions apply:
- (1) Parties in interest. – All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.
  - (2) Vacant industrial warehouse. – Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.
  - (3) Vacant manufacturing facility. – Any building or structure 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. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 37, 51(a), (b), (d).)

**§ 160D-1130. Vacant building receivership.**

(a) Petition to Appoint a Receiver. – The governing board of a city or its delegated commission may petition the superior court for the appointment of a receiver to rehabilitate, demolish, or sell a vacant building, structure, or dwelling upon the occurrence of any of the following, each of which is deemed a nuisance per se:

- (1) The owner fails to comply with an order issued pursuant to G.S. 160D-1122, related to building or structural conditions that constitute a fire or safety hazard or render the building or structure dangerous to life, health, or other property, from which no appeal has been taken.
- (2) The owner fails to comply with an order of the city following an appeal of an inspector's order issued pursuant to G.S. 160D-1122.
- (3) The governing board of the city adopts any ordinance pursuant to subdivision (f)(1) of G.S. 160D-1129, related to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety, and orders a public officer to continue enforcement actions prescribed by the ordinance with respect to the named nonresidential building or structure. The public officer may submit a petition on behalf of the governing board to the superior court for the appointment of a receiver, and if granted by the superior court, the petition shall be considered an appropriate means of complying with the ordinance. In the event the superior court does not grant the petition, the public officer and the governing board may take action pursuant to the ordinance in any manner authorized in G.S. 160D-1129.
- (4) The owner fails to comply with an order to repair, alter, or improve, remove, or demolish a dwelling issued under G.S. 160D-1203, related to dwellings that are unfit for human habitation.
- (5) Any owner or partial owner of a vacant building, structure, or dwelling, with or without the consent of other owners of the property, submits a request to the governing board in the form of a sworn affidavit requesting the governing board to petition the superior court for appointment of a receiver for the property pursuant to this section.

(b) Petition for Appointment of Receiver. – The petition for the appointment of a receiver shall include all of the following: (i) a copy of the original violation notice or order issued by the city or, in the case of an owner request to the governing board for a petition for appointment of a

receiver, a verified pleading that avers that at least one owner consents to the petition; (ii) a verified pleading that avers that the required rehabilitation or demolition has not been completed; and (iii) the names of the respondents, which shall include the owner of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2). If the petition fails to name a respondent as required by this subsection, the proceeding may continue, but the receiver's lien for expenses incurred in rehabilitating, demolishing, or selling the vacant building, structure, or dwelling, as authorized by subsection (f) of this section, does not have priority over the lien of that respondent.

(c) Notice of Proceeding. – Within 10 days after filing the petition, the city shall give notice of the pendency and nature of the proceeding by regular and certified mail to the last known address of all owners of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2). Within 30 days of the date on which the notice was mailed, an owner of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2), may apply to intervene in the proceeding and to be appointed as receiver. If the city fails to give notice to any owner of the property, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2), as required by this subsection, the proceeding may continue, but the receiver's lien for expenses incurred in rehabilitating, demolishing, or selling the vacant building, structure, or dwelling, as authorized by subsection (f) of this section, does not have priority over the lien of that owner, as recorded with the register of deeds, any mortgagee with a recorded interest in the property, and all other parties in interest, as defined in G.S. 160D-1202(2).

(d) Appointment of Receiver. – The court shall appoint a qualified receiver if the provisions of subsections (b) and (c) of this section have been satisfied. If the court does not appoint a person to rehabilitate or demolish the property pursuant to subsection (e) of this section, or if the court dismisses such an appointee, the court shall appoint a qualified receiver for the purpose of rehabilitating and managing the property, demolishing the property, or selling the property to a buyer. To be considered qualified, a receiver must demonstrate to the court (i) the financial ability to complete the purchase or rehabilitation of the property, (ii) the knowledge of, or experience in, the rehabilitation of vacant real property, (iii) the ability to obtain any necessary insurance, and (iv) the absence of any building code violations issued by the city on other real property owned by the person or any member, principal, officer, major stockholder, parent, subsidiary, predecessor, or others affiliated with the person or the person's business. No member of the petitioning city's governing board or a public officer of the petitioning city is qualified to be appointed as a receiver in that action. If, at any time, the court determines that the receiver is no longer qualified, the court may appoint another qualified receiver.

(e) Rehabilitation Not by Receiver. – The court may, instead of appointing a qualified receiver to rehabilitate or sell a vacant building, structure, or dwelling, appoint an owner or other party in interest in the property, as defined in G.S. 160D-1202, to rehabilitate or demolish the property if that person (i) demonstrates the ability to complete the rehabilitation or demolition within a reasonable time, (ii) agrees to comply with a specified schedule for rehabilitation or demolition, and (iii) posts a bond in an amount determined by the court as security for the performance of the required work in compliance with the specified schedule. After the appointment, the court shall require the person to report to the court on the progress of the rehabilitation or demolition, according to a schedule determined by the court. If, at any time, it

appears to the city or its delegated commission that the owner, mortgagee, or other person appointed under this subsection is not proceeding with due diligence or in compliance with the court-ordered schedule, the city or its delegated commission may apply to the court for immediate revocation of that person's appointment and for the appointment of a qualified receiver. If the court revokes the appointment and appoints a qualified receiver, the bond posted by the owner, mortgagee, or other person shall be applied to the receiver's expenses in rehabilitating, demolishing, or selling the vacant building, structure, or dwelling.

(f) Receiver Authority Exclusive. – Upon the appointment of a receiver under subsection (d) of this section and after the receiver records a notice of receivership in the county in which the property is located that identifies the property, all other parties are divested of any authority to collect rents or other income from or to rehabilitate, demolish, or sell the building, structure, or dwelling subject to the receivership. Any party other than the appointed receiver who actively attempts to collect rents or other income from or to rehabilitate, demolish, or sell the property may be held in contempt of court and is subject to the penalties authorized by law for that offense. Any costs or fees incurred by a receiver appointed under this section and set by the court constitute a lien against the property, and the receiver's lien has priority over all other liens and encumbrances, except taxes or other government assessments.

(g) Receiver's Authority to Rehabilitate or Demolish. – In addition to all necessary and customary powers, a receiver appointed to rehabilitate or demolish a vacant building, structure, or dwelling has the right of possession with authority to do all of the following:

- (1) Contract for necessary labor and supplies for rehabilitation or demolition.
- (2) Borrow money for rehabilitation or demolition from an approved lending institution or through a governmental agency or program, using the receiver's lien against the property as security.
- (3) Manage the property prior to rehabilitation or demolition and pay operational expenses of the property, including taxes, insurance, utilities, general maintenance, and debt secured by an interest in the property.
- (4) Collect all rents and income from the property, which shall be used to pay for current operating expenses and repayment of outstanding rehabilitation or demolition expenses.
- (5) Manage the property after rehabilitation, with all the powers of a landlord, for a period of up to two years and apply the rent received to current operating expenses and repayment of outstanding rehabilitation or demolition expenses.
- (6) Foreclose on the receiver's lien or accept a deed in lieu of foreclosure.

(h) Receiver's Authority to Sell. – In addition to all necessary and customary powers, a receiver appointed to sell a vacant building, structure, or dwelling may do all of the following: (i) sell the property to the highest bidder at public sale, following the same presale notice provisions that apply to a mortgage foreclosure under Article 2A of Chapter 45 of the General Statutes, and (ii) sell the property privately for fair market value if no party to the receivership objects to the amount and procedure. In the notice of public sale authorized under this subsection, it is sufficient to describe the property by a street address and reference to the book and page or other location where the property deed is registered. Prior to any sale under this subsection, the applicants to bid in the public sale or the proposed buyer in the private sale shall demonstrate the ability and experience needed to rehabilitate the property within a reasonable time. After deducting the expenses of the sale, the amount of outstanding taxes and other government assessments, and the amount of the receiver's lien, the receiver shall apply any remaining proceeds of the sale first to

the city's costs and expenses, including reasonable attorneys' fees, and then to the liens against the property in order of priority. Any remaining proceeds shall be remitted to the property owner.

(i) Receiver Forecloses on Lien. – A receiver may foreclose on the lien authorized by subsection (f) of this section by selling the property subject to the lien at a public sale, following public notice and notice to interested parties in the manner as a mortgage foreclosure under Article 2A of Chapter 45 of the General Statutes. After deducting the expenses of the sale and the amount of any outstanding taxes and other government assessments, the receiver shall apply the proceeds of the sale to the liens against the property, in order of priority. In lieu of foreclosure, and only if the receiver has rehabilitated the property, an owner may pay the receiver's costs, fees, including reasonable attorneys' fees, and expenses or may transfer ownership in the property to either the receiver or an agreed upon third party for an amount agreed to by all parties to the receivership as being the property's fair market value.

(j) Deed After Sale. – Following the court's ratification of the sale of the property under this section, the receiver shall sign a deed conveying title to the property to the buyer, free and clear of all encumbrances, other than restrictions that run with the land. Upon the sale of the property, the receiver shall at the same time file with the court a final accounting and a motion to dismiss the action.

(k) Receiver's Tenure. – The tenure of a receiver appointed to rehabilitate, demolish, or sell a vacant building, structure, or dwelling shall extend no longer than two years after the rehabilitation, demolition, or sale of the property. Any time after the rehabilitation, demolition, or sale of the property, any party to the receivership may file a motion to dismiss the receiver upon the payment of the receiver's outstanding costs, fees, and expenses. Upon the expiration of the receiver's tenure, the receiver shall file a final accounting with the court that appointed the receiver.

(l) Administrative Fee Charged. – The city may charge the owner of the building, structure, or dwelling subject to the receivership an administrative fee that is equal to five percent (5%) of the profits from the sale of the building, structure, or dwelling or one hundred dollars (\$100.00), whichever is less. (2020-25, s. 38(a).)