

CITY OF SALUDA
ORDINANCE RELATING TO THE MAINTENANCE, REPAIR, CLOSING, AND/OR
DEMOLITION OF NON-RESIDENTIAL BUILDINGS OR ABANDONED STRUCTURES

WHEREAS North Carolina General Statute 160D-1201 authorizes municipal governing boards to adopt and enforce ordinances relating to nonresidential buildings or abandoned structures that fail to meet standards of maintenance, sanitation, and/or safety that are dangerous and injurious to public safety, health, and welfare; and

WHEREAS the Board of Commissioners seeks to create a favorable impression of the City of Saluda as a community that takes pride in its appearance and heritage and to develop standards for the repair, maintenance, and removal of non-residential buildings and abandoned structures; and

BE IT ORDAINED by the Board of Commissioners of the City of Saluda:

The Code of Ordinances of the City of Saluda is amended by adding the following provisions as a Non-Residential Buildings or Abandoned Structures Maintenance Ordinance:

NON-RESIDENTIAL BUILDINGS AND ABANDONED STRUCTURES MAINTENANCE
ORDINANCE

FINDING

The City finds that there are or may exist non-residential buildings or abandoned structures that are injurious to public health, safety, and welfare because of their failure to meet the standards of maintenance, sanitation, and/or safety set forth herein.

INTENT

The intent of this article is to establish minimum standards of maintenance, sanitation, and safety for all non-residential buildings and abandoned structures within the corporate limits of the City of Saluda, to address conditions that are or may be injurious to public health, safety, and welfare. The provisions of this article shall apply to all existing and future non-residential buildings and abandoned structures in the City of Saluda, NC.

DEFINITIONS

The following definitions shall apply to terms as used in this article.

- (A) "Parties in interest" means all individuals, associations, and/or corporations who have interests of record in a nonresidential building or structure and any who are in possession of such building or structure.
- (B) "Premises" means a lot, parcel, or tract of land, including the buildings and structures thereon, under control by the same owner or operator.

- (C) “Structure” means anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including, but not limited to: principal and accessory buildings, manufactured homes or offices, trailer units, signs, poles, fences, walls, bridges, monuments, flagpoles, antennas, transmission poles, towers and cables, above and below ground storage tanks, or other manmade facilities or infrastructures.
- (D) “Abandoned” means **any premises** currently located or erected in the future within the municipal limits of the City of Saluda, NC that is; left without needed protection, care, or support; (and or) is left to fall into a state of disuse.
- (E) “Non-Residential” means **any premises** used or designed or intended to be used other than for Residential Purposes.
- (F) “Residential” means **any premises** that are used or designed for use as a domestic establishment in which one or more persons usually sleep and prepare and serve meals, and includes any lands or buildings that are appurtenant to such establishment and all stairways, walkways, driveways, parking spaces, and fences associated with the dwelling or its yard.

CONFLICTS

If any provision, standard, or requirement of this article is found to conflict with any provision of any other ordinance of the City, the provision that establishes the higher standard or more stringent requirement for the promotion and protection of public health, safety, and/or welfare shall prevail.

STANDARDS AND RESPONSIBILITIES

The parties in interest of non-residential buildings and abandoned 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:

- (A) The premises shall be kept free of all nuisances and any hazards to the safety of occupants, customers, and other persons utilizing the premises and to pedestrians and/or vehicles passing thereby, including but not limited to the following conditions in or about such building or structure:
 - (1) Interior walls or vertical studs that list, lean, or buckle to such an extent as to render the building unsafe.
 - (2) Supporting member(s) that show 20 percent or more damage or deterioration or non-supporting enclosing or outside walls or coverings that show 25 percent or more damage or deterioration.
 - (3) Floors or roofs that have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
 - (4) Damage by fire, wind, or other causes that renders the building unsafe.
 - (5) Dilapidation, decay, unsanitary conditions, or disrepair that is dangerous to the health, safety, or general welfare of the occupants or other persons within the community.
 - (6) Inadequate or obstructed facilities for egress in case of fire or panic.

- (7) Defects that significantly increase the hazards of fire, accident, or other calamities.
 - (8) Lack of adequate ventilation, light, heating, or sanitary facilities to an extent that may endanger the health, safety, or welfare of the occupants or other persons in the community.
 - (9) Lack of proper electrical, heating, or plumbing facilities that create a health or safety hazard.
 - (10) Violation of the Fire Code or other conditions that constitute a fire hazard in the building or on the premises, such as (by way of example and not limitation) the accumulation of garbage, rubbish, hazardous liquids, or other combustible material.
 - (11) Garbage, trash, or rubbish in or near the building, structure, or premises that is likely to attract or become a breeding place for rodents, insects, or other vermin.
- (B) The premises are free of loose and overhanging or leaning objects that constitute a danger of falling on persons on the premises or in the vicinity thereof.
- (C) The premises are free of holes, excavation, breaks, projections, or obstructions within buildings or other structures and on walks, driveways, parking lots, parking areas, and other parts of the premises that are accessible to and used by persons on the premises.
- (D) The exterior of the building, structure, and/or premises is in good repair and free from deterioration, so as not to constitute a nuisance.
- (E) All surfaces are maintained free of cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic or vinyl, other dangerous objects, or similar hazardous conditions.
- (F) All floors, interior walls, and ceilings of every building or structure are structurally sound and are maintained in a good condition compatible with the intended use and in a manner that does not constitute a hazard to the public.
- (G) There are no structures attached or unattached to the principal structure that are found to be hazardous, in poor repair, or structurally deficient.
- (H) There are no objects or elements on or protruding from building walls or roofs or the surrounding premises, such as empty electrical or other conduits, open pipes, unused sign brackets, which constitute potential safety hazards.
- (I) All foundation walls are kept structurally sound and capable of bearing loads safely.
- (J) Building walls that have become exposed as a result of the demolition of adjacent buildings
- (a) have all doors, windows, vents, or similar openings secured with material of the same type comprising the wall, (b) have no protrusions or loose material that constitute a hazard, (c) are painted, stuccoed, or bricked so as not to detract from the adjacent property, and (d) are weatherproofed to prevent deterioration of the wall.
- (K) All windows are tight fitting, have sashes of proper size and design, do not have rotten wood, broken joints, or broken or loose mullions, and do not have broken or missing glazing.

- (L) All windows are maintained free of broken glass, in a manner that ensures that at least 80 percent of the total surface of the glass is free of cracking.
- (M) All openings originally designed as windows are maintained as windows, complete with sills, lintels, frame, and glass, unless the Fire Marshall approves enclosure of the window in a manner that appropriately fills the space and is weatherproof.
- (N) All exterior surfaces that require painting or dealing to protect the underlying surface from deterioration are kept properly painted or sealed.
- (O) All exterior surfaces that have been painted are maintained free of peeling and flaking paint or stucco and entire walls are scraped and repainted or recovered if 30 percent or more of the aggregate area of any painted or stuccoed wall has peeling or flaking paint or stucco that is worn away. When exterior paint is applied, the entire surface shall be painted, not leaving an incomplete or unfinished appearance.
- (P) All doors or other pedestrian or service openings are maintained in good repair, capable of being safely secured, all door frames have appropriately designed and installed doors, and no openings are left open or unsecured after hours in a manner that may constitute an attractive nuisance to persons (adults or children), animals, or vermin.
- (Q) All advertising structures and their supporting members are maintained in good condition and do not constitute a nuisance or safety hazard. All signs, active or inactive, and their supporting members are kept in sound repair and have their exterior surfaces maintained in a properly painted or sealed condition to avoid peeling, flaking or rust (or if not, they shall be removed). All sign surfaces are maintained in legible condition, free of cracks, rips, holes, or other deterioration that diminishes their function or creates unsightly conditions.
- (R) All light poles or other vertical poles or frames and their supporting members are maintained in sound condition, do not constitute a nuisance or safety hazard, and have their exterior surfaces maintained in a properly painted or sealed condition to avoid peeling, flaking, or rust.
- (S) All washrooms and water closet compartment floors are surfaced with water-resistant materials, kept in a dry and sanitary condition, and are provided with a switch and wall plate located in a manner that does not create a danger of short circuiting.
- (T) Flammable or combustible liquids or substances are kept in a container and in a location that is following the codes of the National Fire Protection Association.
- (U) Chimneys, flues, and vent attachments are maintained in a structurally sound manner, are durable, are smoke-tight, can withstand the action of flue gases, and provide sufficient draft.
- (V) Exterior porches, landings, balconies, stairs, ramps, and fire escapes are provided with properly designed, structurally sound, defect-free and properly maintained banisters or railings. Interior stairs and landings are properly maintained and structurally sound.
- (W) Gutters and downspouts are securely installed and appropriately located in a manner that does not create hazards to pedestrians or vehicular traffic.

- (X) Parking lots and all curbing, surfacing, sidewalks, and other appurtenances are maintained free of broken or cracked surfaces, holes, or other hazardous conditions; repairs are made with appropriate materials of similar type. Curb cuts that are abandoned due to new construction, changes in access, or other causes are closed and replaced with curb and gutter compatible with adjoining curb areas and sidewalks are installed in accordance with municipal design standards.
- (Y) All landscaping is kept in good condition, does not obstruct pedestrian walkways, vehicle movement areas, or signs, and does not constitute a vehicle sight distance obstruction, a safety hazard, or a place of potentially dangerous concealment.

OCCUPANCY

The provisions of this article apply to non-residential buildings and abandoned structures whether they are occupied or vacant. All unoccupied or vacant buildings and abandoned structures shall be secured by any party in interest to prevent entry by unauthorized persons and to prevent occurrences of activities not permitted by law.

ADMINISTRATION

The City Manager, his or her designee shall serve as the enforcement officer(s) for the administration of these requirements and standards. The enforcement officer is authorized to exercise any powers necessary or convenient to carry out and implement the purpose and provisions of this article, including the following powers:

- (A) To investigate nonresidential buildings and abandoned structures in the City to determine whether they have been properly maintained in compliance with the minimum standards, so that the safety or health of the occupants and/or members of the public are not jeopardized.
- (B) To administer oaths and affirmations, examine witnesses, and receive evidence.
- (C) To enter upon premises with the permission of the owner or other authorized person or under an administrative search warrant for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.
- (D) To delegate and assign to subordinates or agents those duties and responsibilities necessary to carry out the purposes of ordinances adopted by the board of commissioners.

INVESTIGATION

Whenever it appears to a designated enforcement officer that a nonresidential building or abandoned structure has not been maintained in accordance with the standards of this article, or when a designated enforcement officer receives a complaint of same, the officer shall undertake a preliminary investigation. If entry upon the premises is necessary, the officer may obtain the permission of the owner or other authorized person or may obtain an administrative search warrant under the provisions of G.S. 27.2.

NOTICES; ADMINISTRATIVE HEARINGS

If the preliminary investigation discloses evidence of a violation of the required standards, the enforcement officer shall issue and cause to be served a complaint to the owner of and any known parties in interest in the building or structure, setting forth the charges of violations and containing notice that an administrative hearing will be held before the enforcement officer (or his or her agent) at a specific place within a period of 10 to 30 days following the serving of the complaint. The owner and/or parties in interest shall be given the opportunity to appear in person or otherwise at the time and place of the hearing and to give testimony regarding the matters in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in such administrative hearings.

ADMINISTRATIVE ORDERS

If, following the investigation, notice, and hearing, the enforcement officer determines that the nonresidential building or abandoned structure has not been maintained in accordance with the minimum standards of maintenance, sanitation, and safety set forth in this article, the enforcement officer shall make written findings of fact in support of the determination and shall issue and cause to be served on the owner of the property an order requiring the owner to take remedial action within a reasonable, specified time period. In no case shall the time period be less than 30 days.

LIMITATIONS ON ORDERS

Orders to take remedial action are subject to the following limitations. [G.S. 160D-1203]

- (A) Orders may require the owner to repair, alter, or improve the building or structure to bring it into compliance with the minimum standards of this article or to vacate and close the building or to secure the abandoned structure.
- (B) Orders may require the owner to remove or demolish the building or structure if the cost of repair, alteration, or improvement would exceed 50 percent of its then current value. If the building or structure is designated as a local historic landmark, is listed in the National Register of Historic Places, or located in a designated historic district and the board of commissioners determines, after a public hearing, that the building or structure is of individual significance or contributes to the character of the district, and the building or structure has not been condemned as unsafe, the order may require that the building or structure be vacated and closed until it is brought into compliance with the minimum standards.

FAILURE TO COMPLY WITH ORDER

If the owner fails to comply with the order of the enforcement officer, the following procedures shall apply. [G.S. 160D-1203]

- (A) *Orders to Repair, Alter, Improve, Vacate, or Close.* If an owner fails to comply with an order to repair, alter, or improve or to vacate or close the non-residential building or abandoned structure, the board of commissioners may adopt an ordinance ordering the enforcement officer to implement the purpose of this article with respect to the property. The property shall be described in the ordinance, which shall be recorded in the office of the register of deeds and indexed to the name of the property owner(s) in the grantor index. Following adoption of the ordinance, the enforcement officer may cause the building or structure to be repaired, altered, or improved or to be vacated or closed. The enforcement officer may post on the main entrance of the building or structure that is closed a placard advising that “This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful”.
- (B) *Orders to Remove or Demolish.* If an owner fails to comply with an order to remove or demolish the non-residential building or abandoned structure, the board of commissioners may adopt an ordinance ordering the enforcement officer to implement the purpose of this article with respect to the building or structure. No ordinance shall be adopted to require demolition of a building or structure until the owner has been given a reasonable opportunity to bring it into conformity with the minimum standards. The property shall be described in the ordinance, which shall be recorded in the office of the register of deeds and indexed in the name of the property owner(s) in the grantor index. Following adoption of the ordinance, the enforcement officer may cause the building or structure to be removed or demolished.

ABANDONMENT OF INTENT TO REPAIR

If the board of commissioners or the enforcement 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 such ordinance or order, the board of commissioners may find that 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 a vacated and closed status would be inimical to the health, safety, and welfare of the town, in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children or 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 board of commissioners may enact an ordinance and serve such ordinance on the owner. If the cost to repair the building or structure to bring it into compliance with minimum standards is 50 percent or less of its then-current value, the ordinance shall require the owner to either repair or demolish and remove the building or structure within 90 days. If the cost to repair the building or structure to bring it into compliance with minimum standards exceeds 50 percent of its then-current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days. The ordinance shall be recorded in the office of the register of deeds, indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the enforcement officer shall implement the purpose of the ordinance.

SERVICE OF COMPLAINTS AND ORDERS

Complaints or orders issued by the enforcement officer pursuant to an ordinance adopted under this article shall be served upon persons either personally or by registered or certified mail, if the means are reasonably designed to achieve actual notice. Copies may also be sent by regular mail. Service shall be deemed sufficient if the registered or 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 affected premises. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the enforcement officer in the exercise of due diligence, and the enforcement officer makes an affidavit to that effect, serving of the complaint or order may be made by publication, at least once no later than the time that personal service would be required, in a newspaper having general circulation in the town. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the affected premises.

LIENS

The cost of repairs, alterations, or improvements, or of vacating and closing, or of removal or demolition by the enforcement officer under the provisions of this article shall be a lien against the real property upon which the cost was incurred. The lien shall have the same priority and shall be collected as a lien for special assessment under Article 7, Chapter 160D-1203 of the General Statutes. The costs shall also be a lien on any other real property of the owner located within the town except for the owner's primary residence; this additional lien is inferior to prior liens and shall be collected as a money judgment.

SALVAGE

If a nonresidential building or abandoned structure is removed or demolished by the enforcement officer, he or she shall offer for sale any recoverable building materials and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the net proceeds of the sale, if any, against the cost of the removal or demolition. Any balance remaining shall be deposited in the superior court, secured in a manner directed by the court, and disbursed by the court to the persons found to be entitled thereto.

OCCUPANT REMOVAL

If any occupant fails to comply with an order to vacate a nonresidential building or abandoned structure, the enforcement officer may file, with the approval of the board of commissioners, a civil action in the name of the town to remove the occupant. Such proceedings shall be carried out in accordance with the requirements of G.S. 160D-1203.

CIVIL PENALTY

In addition to other remedies provided in this article, any violation of this article may subject the offender to a civil penalty in the amount of \$50 for each day the violation(s) continue to exist.

NUISANCE ABATEMENT AUTHORITY

Nothing in this article shall be construed to impair or limit the power of the board of commissioners to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this article is held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this article.

Section 2. This ordinance shall be effective upon its adoption.

O _____, passed _____

Mark Oxtoby, Mayor Pro Tem

ATTEST

Tola Sum Mueller

Tola Mueller, City Clerk



APPROVED AS TO FORM

Jana Berg, City Attorney