

Chapter 8

BUILDINGS AND BUILDING REGULATIONS*

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Cross References: Fire prevention and protection, ch. 16; solid waste, ch. 22; utilities, ch. 30.
State Law References: Municipal authority regarding buildings, G.S. 160A-411--160A-438.

ARTICLE I. IN GENERAL

Secs. 8-1--8-35. Reserved.

ARTICLE II. BUILDING CODE

Sec. 8-36. Adoption.

The Building Code of Gaston County, North Carolina is hereby adopted as the building code of the city and shall have the same force and effect as if fully set out herein. Such building code shall govern all building work undertaken within the city.

(Code 1973, § 5-1)

State Law References: Authority of city to adopt building code, G.S. 143-138; adoption of building code by reference, G.S. 160A-76.

Sec. 8-37. Enforcement.

(a) The building inspector of the county and the county inspection department are hereby authorized, empowered and directed to exercise in all respects their powers relating to the enforcement of the building code adopted in this article, within the city limits of the city until such time as the city council shall officially withdraw their request.

(b) The county building inspector is hereby authorized and directed to establish such administrative procedures as may in his opinion be necessary to accomplish the authority granted him and the county inspection department by this section.

(Code 1973, § 5-2)

State Law References: Authority of county building inspector to exercise his power within city, G.S. 160A-413.

Sec. 8-38. Fees.

Any person applying for a building permit shall pay a fee as established by the city council from time to time. The current schedule of such fees as established by the city council shall be kept on file in the office of the city clerk. (Code 1973, § 5-6)

State Law References: Municipal authority to establish fees for building permits, G.S. 160A-414.

Secs. 8-39--8-60. Reserved.

ARTICLE III. ELECTRICAL CODE

Sec. 8-61. Adoption.

The Electrical Code of Gaston County, North Carolina is hereby adopted as the electrical code of the city and shall have the same force and effect as if fully set out in this article. Such electrical code shall govern all electrical work undertaken within the city.

(Code 1973, § 7-1)

State Law References: Authority of city to adopt electrical code by reference, G.S. 160A-76.

Sec. 8-62. Enforcement.

(a) The building inspector of the county and the county inspection department are hereby authorized, empowered and directed to exercise in all respects their powers relating to the enforcement of the electrical code adopted in this article, within the municipal limits of the city until such time as the city council shall officially withdraw its request.

(b) The county building inspector is hereby authorized and directed to establish such administrative procedures as may in his opinion be necessary to accomplish the authority granted him and the county inspection department by this section.

(Code 1973, § 7-2)

State Law References: Authority of city to appoint county inspector to exercise his power within city, G.S. 160A-413.

Secs. 8-63--8-90. Reserved.

ARTICLE IV. PLUMBING CODE

Sec. 8-91. Adoption.

The Plumbing Code of Gaston County, North Carolina is hereby adopted as the plumbing code of the city and shall have the same force and effect as if fully set out in this article. Such plumbing code shall govern all plumbing work undertaken in the city.

(Code 1973, § 15-1)

State Law References: Authority of city to adopt plumbing code by reference, G.S. 160A-76.

Sec. 8-92. Enforcement.

(a) The building inspector of the county and the county inspection department are hereby authorized, empowered and directed to exercise in all respects their powers relating to the plumbing code adopted in this article

within the city until such time as the city council shall officially withdraw their requests.

(b) The county building inspector is hereby authorized and directed to establish such administrative procedures as may in his opinion be necessary to accomplish the authority granted him and the county inspection department by this section.
(Code 1973, § 15-2)

Secs. 8-93--8-120. Reserved.

ARTICLE V. UNSAFE BUILDINGS AND DWELLINGS*

* **State Law References:** Minimum housing standards, G.S. 160A-441 et seq.

Sec. 8-121. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building means any structure or part thereof not a dwelling.

Dwelling means any structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouse and appurtenances belonging thereto or usually enjoyed therewith.

Inspector means the building inspector or such other person designated by the city manager.

Owners means the holder of the title in fee simple and every mortgage, judgment and lien holder of record.

Parties in interest means individuals, associations and corporations who have interests of record in a dwelling or building, and any who are in possession thereof.

Public authority means any officer who is in charge of any department of the government of the city, county or state relating to health, fire, building regulations or other activities concerning dwellings or buildings in the city.

Public officer means the officer, including the building inspector, who are authorized by the provisions of this article to exercise the powers prescribed by such provisions.

(Code 1973, § 5-7)

Cross References: Definitions generally, § 1-2.

Sec. 8-122. Legislative findings.

(a) It is found as a fact that there exist in the city dwellings which are dangerous or unsafe due to dilapidation, defects increasing hazards of fire, accident or other calamities, due to other conditions rendering such dwellings unsafe, unsanitary, dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the city.

(b) It is found as a fact that there exist in the city buildings which are dangerous due to dilapidation, defects increasing the hazards of fire, accident or other calamities, and due to other conditions rendering such buildings unsafe, unsanitary or detrimental to health, safety or morals, or otherwise inimical to the welfare of the residents of the city.
(Code 1973, § 5-8)

Sec. 8-123. Applicability of article; departmental enforcement procedures.

(a) The powers conferred upon the inspector by the provisions of this article shall be in addition to the powers conferred upon the inspector by any other ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define nuisances and to cause their removal or abatement by proceedings or otherwise. The measures and procedures provided for in this article do not supersede and this article does not repeal, or any other measures or procedures which are provided by ordinance or state law for the elimination, repair or correction of the conditions referred to in section 8-122, but the measures and procedures herein provided for shall be in addition to same.

(b) It shall be the duty of the city manager to coordinate and set up proper departmental enforcement procedures to carry out the provisions of this article.
(Code 1973, § 5-17)

Sec. 8-124. Powers of public officer.

The public officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the powers specifically contained in G.S. 160A-448.
(Code 1973, § 5-18)

Sec. 8-125. Building declared public nuisance when order not complied with; penalty.

If any order issued and served in accordance with this article is not complied with in the time specified therein, the building or dwelling with respect to which the order has been issued is hereby declared to be a public nuisance. It shall be unlawful for any person that has knowledge of the issuance of such order to occupy as a human habitation, or use such building, or any part thereof, or to suffer or permit same, or any part thereof, to be occupied as a human habitation or used therefor, and any person violating this section or failing to comply therewith shall be subject to the penalties authorized in section 1-11 for each and every offense. Each day that any such violation or failure to comply continues shall constitute and be a separate and distinct offense.

(Code 1973, § 5-20)

Sec. 8-126. Duty to examine dwellings and buildings where unsafe conditions exist.

It shall be the duty of the inspector to examine diligently any dwelling or building located in the city where conditions described in section 8-125 exist, for the purpose of locating and taking action with respect to such dwellings that appear to be unfit for human habitation or buildings that appear to be dangerous.

(Code 1973, § 5-9)

Sec. 8-127. Powers of inspector generally.

The inspector shall exercise the powers described in this article:

- (1) Whenever a petition is filed with the inspector by a public authority or by at least five residents of the city charging that any building is unsafe or dwelling is unfit for human habitation or whenever it appears to the inspector, on his own motion, that such building is dangerous or any dwelling is unfit for human habitation, the inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building or dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the inspector, or his designated agent, at a place within the county in which the property is located therein fixed not less

than ten days nor more than 30 days after the serving of such complaint; the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

- (2) If, after such notice and hearing, the inspector determines that the building is dangerous and unsafe or that the dwelling under consideration is unfit for human habitation he shall state in writing his findings of the fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

- a. If the repair, alteration or improvement of such dwelling or building can be made at a cost of not more than 60 percent of the value of the dwelling or building, the order shall require the owner, within the time specified therein, to repair, alter or improve such dwelling or building so as to render it safe.
- b. If the repair, alteration or improvement of such dwelling or building cannot be made at a cost equal to or less than 60 percent of the value of the dwelling, the order shall require the owner, within the time specified, to remove or demolish the dwelling or building.

- (3) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling or building, the inspector may cause such dwelling or building to be repaired, altered or improved or to be vacated and closed; and the inspector may cause to be posted on the main entrance of any dwelling or building so closed a placard with the following words:

"This dwelling or building
is dangerous and unsafe or this

dwelling or building is unfit for human habitation; and the use or occupation of this dwelling or building for human habitation is prohibited and unlawful."

Occupation of a dwelling or building so posted shall constitute a misdemeanor.

(4) If the owner fails to comply with an order to remove or demolish the dwelling or building, the inspector may cause such dwelling or building to be removed or demolished; provided, however, that the duties of the inspector set forth in subsection (3) of this section and this subsection shall not be exercised until the city council shall have by ordinance ordered the inspector to proceed to effectuate the purpose of this article with respect to the particular property or properties which the inspector shall have found to be unfit for human habitation and unsafe and which property shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling or building until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code and the provisions of this article. The ordinance relating to the specific property found to be unfit for human habitation or dangerous and unsafe and subject to removal or demolition shall, when duly adopted, be recorded in the office of the register of deeds for the county and shall be indexed in the name of the property owners in the grantor index.

(5) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the inspector or under his orders shall be a lien against the real property upon which cost was incurred, which lien shall be filed, have the same priority and be collected as a lien for special assessments as provided in G.S. 160A-216 et seq.

a. If the dwelling or building is removed or demolished by the inspector, he shall sell the materials of such dwellings and

buildings and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the inspector, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

b. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(6) Failure on the part of any owner or parties in interest to receive or have served upon him any complaint, notice or order provided for in this section shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person.

(7) Any person affected by an order issued by the inspector may petition to the superior court for an injunction restraining the inspector from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the inspector pending the final disposition of the cause; provided, however, that within 60 days after the posting and service of the order of the inspector, such person shall present such petition to the court. Hearings shall be had by the court and given preference over other matters of the court's calendar as by law required. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided, however, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this section.

(Code 1973, § 5-10)

Sec. 8-128. Enforcement powers.

The inspector shall have such powers as may be necessary, lawful or convenient to carry out and effectuate the purpose and provisions of this article, including, without limiting the generality of the foregoing, the following powers in addition to others granted in this article:

- (1) To investigate and examine dwellings and building conditions in the city in order to determine which dwellings and buildings are unfit for human habitation and dangerous, being guided in such examination of dwellings and buildings by the requirements set forth, and to administer oaths, affirmations, examine witnesses and receive evidence.
- (2) To enter upon and within premises, dwellings and buildings for the purposes of making examinations and investigations; provided, that such entries shall be lawful and made in such manner as to cause the least possible inconvenience to the persons in possession.
- (3) To appoint and fix the duties, as provided in this article, of such officers, agents and employees as he deems necessary to carry out the purpose of this article.
- (4) To delegate any of his functions and powers under this article to such officers and agents as he may designate.

(Code 1973, § 5-11)

Sec. 8-129. Determination of unsafe conditions.

(a) The inspector shall determine that a dwelling or a building is unfit for human habitation or dangerous if he finds that any of the following conditions exist in such dwellings or buildings:

- (1) Supporting member or members which show 33 percent or more of damage or deterioration or nonsupporting enclosing or outside walls or covering which show 50 percent or more damage or deterioration;
- (2) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

- (3) Such damage by fire, wind or other causes as endangers the lives, safety or welfare of the occupants or other people in the city;
- (4) Dilapidation, decay or disrepair, which is likely to cause sickness or disease, or to work injury to the health, safety or welfare of people of the city;
- (5) Inadequate facilities for egress in case of fire or panic;
- (6) Defects therein increasing the hazards of fire, accident or other calamities;
- (7) Violation of any provisions of the building regulations or fire prevention laws or ordinances of the state or city.

(b) Every building which shall appear to the inspector to be especially dangerous to life because of its liability to fire or in case of fire by reason of bad condition of walls, overloaded floors, defective construction, decay 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 such building.

(Code 1973, § 5-12)

Sec. 8-130. Complaints, notices and orders--Service; posting on premises; filing copies.

Complaints, notices or orders issued by the inspector pursuant thereto shall be served upon persons either personally or by registered or certified mail; but, if the whereabouts of any person is unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, and the inspector shall make an affidavit to that effect, then the serving of such complaint, notice or order upon such person may be made by publication in the manner prescribed in the rules of civil procedure. A copy of any notice, complaint or order served by publication shall be posted in a conspicuous place on the premises affected by the notice, complaint or order on or before the date of the last publication. A copy of such complaint or order shall also be filed by the inspector in the office of the clerk of superior court of the county, as in cases of *lis pendens* notice, as provided by law.

(Code 1973, § 5-13)

Sec. 8-131. Same--Unauthorized removal.

No person without written consent of the inspector,

shall remove or permit removal of any complaint, notice or order posted in accordance with the provisions of section 8-127. Any person violating or failing to comply with the provisions of this section shall be subject to, and shall pay, a penalty of \$50.00 for each and every offense.
(Code 1973, § 5-14)

against such persons civilly for recovery of such penalty, or criminally as he may determine.
(Code 1973, § 5-19)

Sec. 8-132. Penalty for allowing unsafe building to stand after notification.

If the owner of any dwelling or building which has been condemned as unsafe and dangerous to life by the inspector, after being notified by the inspector in writing of the unsafe and dangerous character of such dwelling or building, shall permit the same to stand or continue in that condition, he shall be guilty of a misdemeanor and shall pay a fine of not less than \$10.00 nor more than \$50.00 for each day such building continues after such notice.
(Code 1973, § 5-15)

Sec. 8-133. Emergency repair or demolition of dwellings and buildings.

(a) In emergency cases where it reasonably appears there is immediate danger to life or safety of any person or to safety of other property, unless a dwelling unfit for human habitation or an unsafe or dangerous structure herein described is immediately repaired or demolished, the inspector shall cause immediate repair or demolition of such dwelling or building and the cost of such repair or demolition shall be recovered and collected as is provided in section 8-127(5).

(b) The employees of the fire department and police department of the city and employees of the health department of the county shall make a report in writing to the inspector of all buildings or structures which are, may be, or are suspected of being unfit for human habitation or a dangerous dwelling or building within the terms of this article, such report to be delivered to the inspector within 48 hours of discovery of such building by such employee of the fire and police departments of the city or health department of the county.
(Code 1973, § 5-16)

Sec. 8-134. Report of names and addresses of persons in violation of article.

The inspector shall promptly report to the city council names and addresses of all persons who have violated or failed to comply with this article, and who are subject to penalty therefor. It shall be the duty of the inspector, with approval of the city council, to proceed

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