

ORDINANCE # 367

AN ORDINANCE PROVIDING FOR THE REPAIR, CLOSING OR
DEMOLITION OF ABANDONED STRUCTURES PURSUANT TO
G. S. 160A-441

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF RURAL HALL:

SECTION 1. FINDING INTENT. IT IS HEREBY FOUND THAT THERE EXISTS WITHIN THE TOWN ABANDONED STRUCTURES WHICH THE TOWN COUNCIL FINDS TO BE HAZARDOUS TO THE HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THE TOWN DUE TO THE ATTRACTION OF INSECTS OR RODENTS, CONDITIONS CREATING A FIRE HAZARD, DANGEROUS CONDITIONS CONSTITUTING A THREAT TO CHILDREN OR FREQUENT USE BY VAGRANTS AS LIVING QUARTERS IN THE ABSENCE OF SANITARY FACILITIES.

THEREFORE, PURSUANT TO THE AUTHORITY GRANTED BY G. S. 160A-441, IT IS THE INTENT OF THIS ORDINANCE TO PROVIDE FOR THE REPAIR, CLOSING OR DEMOLITION OF ANY SUCH ABANDONED STRUCTURES IN ACCORDANCE WITH THE SAME PROVISIONS AND PROCEDURES AS ARE SET FORTH BY LAW FOR THE REPAIR, CLOSING OR DEMOLITION OF DWELLINGS UNFIT FOR HUMAN HABITATION.

SECTION 2. DUTIES OF THE CODE ENFORCEMENT OFFICER. THE CODE ENFORCEMENT OFFICER IS HEREBY DESIGNATED AS THE TOWN OFFICER TO ENFORCE THE PROVISIONS OF THIS ORDINANCE. IT SHALL BE THE DUTY OF THE CODE ENFORCEMENT OFFICER:

- A. TO LOCATE ABANDONED STRUCTURES WITHIN THE TOWN AND DETERMINE WHICH STRUCTURES ARE IN VIOLATION OF THIS ORDINANCE;
- B. TO TAKE SUCH ACTION PURSUANT TO THIS ORDINANCE AS MAY BE NECESSARY TO PROVIDE FOR THE REPAIR, CLOSING OR DEMOLITION OF SUCH STRUCTURES;
- C. TO KEEP AN ACCURATE RECORD OF ALL ENFORCEMENT PROCEEDINGS BEGUN PURSUANT TO THE PROVISIONS OF THIS ORDINANCE;
- D. TO PERFORM SUCH OTHER DUTIES AS MAY BE PRESCRIBED HEREIN OR ASSIGNED TO HIM BY THE TOWN COUNCIL.

SECTION 3. POWERS OF THE CODE ENFORCEMENT OFFICER. THE CODE ENFORCEMENT OFFICER IS AUTHORIZED TO EXERCISE SUCH POWERS AS MAY BE NECESSARY TO CARRY OUT THE INTENT AND PROVISIONS OF THIS ORDINANCE, INCLUDING THE FOLLOWING POWERS IN ADDITION TO OTHERS HEREIN GRANTED:

- A. TO INVESTIGATE THE CONDITION OF BUILDINGS WITHIN THE TOWN IN ORDER TO DETERMINE WHICH STRUCTURES ARE ABANDONED AND IN VIOLATION OF THIS ORDINANCE;
- B. TO ENTER PREMISES, AFTER HAVING PROBABLE CAUSE, AT ANY REASONABLE TIME, FOR THE PURPOSE OF MAKING INSPECTIONS;

- C. TO ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES, AND RECEIVE EVIDENCE; AND
- D. TO DESIGNATE SUCH OTHER OFFICERS, AGENTS AND EMPLOYEES OF THE TOWN AS HE DEEMS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ORDINANCE.

SECTION 4. STANDARDS FOR ENFORCEMENT.

A. EVERY ABANDONED STRUCTURE WITHIN THE TOWN SHALL BE DEEMED IN VIOLATION OF THIS ORDINANCE WHENEVER SUCH STRUCTURE CONSTITUTES A HAZARD TO THE HEALTH, SAFETY OR WELFARE OF THE TOWN CITIZENS AS A RESULT OF:

- 1. THE ATTRACTION OF INSECTS OR RODENTS;
- 2. CONDITIONS CREATING A FIRE HAZARD;
- 3. DANGEROUS CONDITIONS CONSTITUTING A THREAT TO CHILDREN; OR
- 4. FREQUENT USE BY VAGRANTS AS LIVING QUARTERS IN THE ABSENCE OF SANITARY FACILITIES.

B. IN MAKING THE PRELIMINARY DETERMINATION OF WHETHER OR NOT AN ABANDONED STRUCTURE IS IN VIOLATION OF THIS ORDINANCE, THE CODE ENFORCEMENT OFFICER MAY, BY WAY OF ILLUSTRATION AND NOT LIMITATION, CONSIDER THE PRESENCE OR ABSENCE OF THE FOLLOWING CONDITIONS:

- 1. HOLES OR CRACKS IN THE STRUCTURE'S FLOOR, WALLS, CEILINGS OR ROOF WHICH MIGHT ATTRACT OR ADMIT RODENTS AND INSECTS, OR BECOME BREEDING PLACES FOR RODENTS AND INSECTS;
- 2. THE COLLECTION OF GARBAGE OR RUBBISH IN OR NEAR THE STRUCTURE WHICH MIGHT ATTRACT RODENTS AND INSECTS, OR BECOME BREEDING PLACES FOR RODENTS AND INSECTS;
- 3. VIOLATIONS OF THE STATE BUILDING CODE, THE STATE ELECTRICAL CODE, OR THE FIRE PREVENTION CODE WHICH CONSTITUTE A FIRE HAZARD IN SUCH STRUCTURE;
- 4. THE COLLECTION OF GARBAGE, RUBBISH OR COMBUSTIBLE MATERIAL WHICH CONSTITUTES A FIRE HAZARD IN SUCH STRUCTURE;
- 5. THE USE OF SUCH STRUCTURE ON NEARBY GROUNDS OR FACILITIES BY CHILDREN AS PLAY AREA;
- 6. VIOLATIONS OF THE STATE BUILDING CODE WHICH MIGHT RESULT IN DANGER TO CHILDREN USING THE STRUCTURE OR NEARBY GROUNDS OR FACILITIES AS A PLAY AREA; AND
- 7. REPEATED USE OF SUCH STRUCTURE BY TRANSIENTS AND VAGRANTS, IN THE ABSENCE OF SANITARY FACILITIES, FOR LIVING, SLEEPING, COOKING OR EATING.

SECTION 5. PROCEDURE FOR ENFORCEMENT.

A. PRELIMINARY INVESTIGATION; NOTICE; HEARING. WHENEVER A PETITION IS FILED WITH THE CODE ENFORCEMENT OFFICER BY AT LEAST FIVE (5) RESIDENTS OF THE TOWN CHARGING THAT ANY STRUCTURE EXISTS

IN VIOLATION OF THIS ORDINANCE OR WHENEVER IT APPEARS TO THE CODE ENFORCEMENT OFFICER, UPON INSPECTION, THAT ANY STRUCTURE EXISTS IN VIOLATION HEREOF, HE 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 STRUCTURE A COMPLAINT STATING THE CHARGES AND CONTAINING A NOTICE THAT A HEARING WILL BE HELD BEFORE THE CODE ENFORCEMENT OFFICER AT A PLACE THEREIN FIXED, NOT LESS THAN TEN (10) NOR MORE THAN THIRTY (30) DAYS AFTER THE SERVING OF SAID COMPLAINT. THE OWNER OR ANY PARTY IN INTEREST SHALL HAVE 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. NOTICE OF SUCH HEARING SHALL ALSO BE GIVEN TO AT LEAST ONE OF THE PERSONS SIGNING A PETITION RELATING TO SUCH STRUCTURE. ANY PERSON DESIRING TO DO SO MAY ATTEND SUCH HEARING AND GIVE EVIDENCE RELEVANT TO THE MATTER BEING HEARD. THE RULES OF THE EVIDENCE PREVAILING IN COURTS OF LAW OR EQUITY SHALL NOT BE CONTROLLING IN HEARINGS BEFORE THE CODE ENFORCEMENT OFFICER.

B. PROCEDURE AFTER HEARING. AFTER SUCH NOTICE AND HEARING, THE CODE ENFORCEMENT OFFICER SHALL STATE IN WRITING HIS DETERMINATION WHETHER SUCH STRUCTURE VIOLATES THIS ORDINANCE.

IF THE CODE ENFORCEMENT OFFICER DETERMINES THAT THE DWELLING IS IN VIOLATION HE SHALL STATE IN WRITING HIS FINDINGS OF FACT TO SUPPORT SUCH DETERMINATION, AND SHALL ISSUE AND CAUSE TO BE SERVED UPON THE OWNER THEREOF AN ORDER DIRECTING AND REQUIRING THE OWNER TO EITHER REPAIR, ALTER AND IMPROVE SUCH STRUCTURE OR ELSE REMOVE OR DEMOLISH THE SAME WITHIN A SPECIFIED PERIOD OF TIME NOT TO EXCEED NINETY (90) DAYS.

C. FAILURE TO COMPLY WITH ORDER

1. IN PERSONAM REMEDY. IF THE OWNER OF ANY STRUCTURE SHALL FAIL TO COMPLY WITH AN ORDER OF THE CODE ENFORCEMENT OFFICER WITHIN THE TIME SPECIFIED THEREIN, THE CODE ENFORCEMENT OFFICER MAY SUBMIT TO THE TOWN COUNCIL AT ITS NEXT REGULAR MEETING A RESOLUTION DIRECTING THE TOWN ATTORNEY TO PETITION THE SUPERIOR COURT FOR AN ORDER DIRECTING SUCH OWNER TO COMPLY WITH THE ORDER OF THE CODE ENFORCEMENT OFFICER, AS AUTHORIZED BY G. S. 160A-446(G).

2. IN REM REMEDY. AFTER FAILURE OF AN OWNER OF A STRUCTURE TO COMPLY WITH AN ORDER OF THE CODE ENFORCEMENT OFFICER WITHIN THE TIME SPECIFIED THEREIN, IF INJUNCTIVE RELIEF HAS NOT BEEN SOUGHT OR HAS NOT BEEN GRANTED AS PROVIDED IN THE PRECEDING PARAGRAPH 1., THE CODE ENFORCEMENT OFFICER SHALL SUBMIT TO THE TOWN COUNCIL AN ORDINANCE ORDERING THE CODE ENFORCEMENT OFFICER, TO CAUSE SUCH STRUCTURE TO BE REMOVED OR DEMOLISHED, AS PROVIDED IN THE ORIGINAL ORDER OF THE CODE ENFORCEMENT OFFICER, AND PENDING SUCH REMOVAL OR DEMOLITION, TO PLACARD SUCH DWELLING AS PROVIDED BY G. S. 160A-443.

3. APPEALS BOARD. THE TOWN COUNCIL HEREBY ESTABLISHES A "HOUSING APPEALS BOARD" TO WHICH APPEALS MAY BE TAKEN FROM A DECISION OR ORDER OF THE CODE ADMINISTRATOR OR HOUSING INSPECTOR. THIS HOUSING APPEALS BOARD SHALL CONSIST OF THE MAYOR AND THE TOWN COUNCIL, AND ALL OF ITS PROCEEDINGS SHALL BE OPEN TO THE PUBLIC.

D. PETITION TO SUPERIOR COURT BY OWNER. ANY PERSON AGGRIEVED BY AN ORDER ISSUED BY THE CODE ENFORCEMENT OFFICER SHALL HAVE THE RIGHT, WITHIN THIRTY (30) DAYS AFTER ISSUANCE OF THE ORDER TO PETITION THE SUPERIOR COURT FOR A TEMPORARY INJUNCTION RESTRAINING THE CODE ENFORCEMENT OFFICER PENDING A FINAL DISPOSITION OF THE CAUSE, AS PROVIDED BY G. S. 160A-446(F).

SECTION 6. METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

COMPLAINTS OR ORDERS ISSUED BY THE CODE ENFORCEMENT OFFICER SHALL BE SERVED UPON PERSONS EITHER PERSONALLY OR BY CERTIFIED OR REGISTERED MAIL, BUT IF THE WHEREABOUTS OF SUCH PERSONS ARE UNKNOWN AND THE SAME CANNOT BE ASCERTAINED BY THE CODE ENFORCEMENT OFFICER IN THE EXERCISE OF REASONABLE DILIGENCE, THE CODE ENFORCEMENT OFFICER SHALL MAKE AN AFFIDAVIT TO THAT EFFECT, AND SERVING OF SUCH COMPLAINT OR ORDER UPON SUCH PERSON MAY BE MADE BY PUBLICATION IN A NEWSPAPER HAVING GENERAL CIRCULATION IN THE TOWN AT LEAST ONCE, NO LATER THAN THE TIME AT WHICH PERSONAL SERVICE IS REQUIRED UNDER SECTION 5 OF THIS ORDINANCE. WHERE SERVICE IS MADE BY PUBLICATION, A NOTICE OF THE PENDING PROCEEDINGS SHALL BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES AFFECTED BY THE COMPLAINT OR ORDER.

SECTION 7. IN REM ACTION BY CODE ENFORCEMENT OFFICER PLACARD:

AFTER FAILURE OF AN OWNER OF A STRUCTURE TO COMPLY WITH AN ORDER OF THE CODE ENFORCEMENT OFFICER ISSUED PURSUANT TO THE PROVISIONS OF THIS ORDINANCE, AND UPON ADOPTION BY THE TOWN COUNCIL OF AN ORDINANCE AUTHORIZING AND DIRECTING HIM TO DO SO, AS PROVIDED BY G. S. 160A-443(5) AND SECTION 5 C. OF THIS ORDINANCE, THE CODE ENFORCEMENT OFFICER SHALL PROCEED TO CAUSE SUCH STRUCTURE EITHER TO BE REPAIRED OR ELSE REMOVED OR DEMOLISHED, AS DIRECTED BY THE ORDINANCE OF THE TOWN COUNCIL AND SHALL CAUSE TO BE POSTED ON THE MAIN ENTRANCE OF SUCH STRUCTURE A PLACARD PROHIBITING THE USE OR OCCUPATION OF THE STRUCTURE. USE OR OCCUPATION OF A BUILDING SO POSTED SHALL CONSTITUTE A MISDEMEANOR.

EACH SUCH ORDINANCE SHALL BE RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS OF FORSYTH COUNTY, AND SHALL BE INDEXED IN THE NAME OF THE PROPERTY OWNER IN THE GRANTOR INDEX, AS PROVIDED BY G. S. 160A-446(5).

SECTION 8. COST OF LIEN ON PREMISES.

AS PROVIDED BY G. S. 160A-446(6), THE AMOUNT OF THE COST OF ANY REMOVAL OR DEMOLITION CAUSED TO BE MADE OR DONE BY THE CODE ENFORCEMENT OFFICER PURSUANT TO THIS ORDINANCE SHALL BE A LIEN AGAINST THE REAL PROPERTY UPON WHICH SUCH COST WAS INCURRED. SUCH LIEN SHALL BE FILED, HAVE THE SAME PRIORITY, AND BE ENFORCED AND THE COST COLLECTED AS PROVIDED BY ARTICLE 10, CHAPTER 160A OF THE GENERAL STATUTES.

SECTION 9. ALTERNATIVE REMEDIES.

NEITHER THIS ORDINANCE NOR ANY OF ITS PROVISIONS SHALL BE CONSTRUED TO IMPAIR OR LIMIT IN ANY WAY THE POWER OF THE TOWN TO DEFINE AND DECLARE NUISANCES AND TO CAUSE THEIR ABATEMENT BY SUMMARY ACTION OR OTHERWISE, OR TO ENFORCE THIS ORDINANCE BY CRIMINAL PROCESS, AND THE ENFORCEMENT OF ANY OTHER REMEDY OR REMEDIES PROVIDED HEREIN OR IN OTHER ORDINANCES OR LAWS.

SECTION 10.

THIS ORDINANCE IS EFFECTIVE UPON ITS ADOPTION.

ADOPTED THIS 14th DAY OF June, 1993.


LARRY T. WILLIAMS - MAYOR

ATTEST:


JOLENE H. MASSIE - TOWN CLERK