

## **CONDEMNATION, REPAIR AND DEMOLITION OF UNSAFE STRUCTURES**

### **Duty of Building Inspector**

- (a) For purposes of this article, the building inspector shall be a duly authorized individual employed by the County of Davidson and certified in code enforcement by the North Carolina Code Qualifications Board, charged with building inspection responsibilities through the county and in the corporate limits of the town pursuant to a contract with the Town of Midway.
- (b) Any building or structure or part thereof, partially destroyed or otherwise, which is found by the building inspector to be in such a dilapidated state of disrepair or other substandard condition as to be dangerous to life, health or other property, or to constitute a fire or safety hazard or a public nuisance shall be declared by the building inspector to be unsafe.
- (c) Such unsafe condition may be caused by defective construction, overloaded structural parts, decay, susceptibility to fire, exits or any other hazardous conditions or circumstances.
- (d) The building inspector shall have authority, and it shall be his duty, to declare all such buildings or structures unsafe and to take appropriate action to have such conditions corrected or removed.
- (e) Such declaration by the building inspector shall constitute an order of condemnation for the purposes of this article.

### **Duty of Owner; Procedure upon Owner's Failure to Comply**

(Whenever any building or structure has been condemned by the building inspector, and the existence of such building or structure in a dilapidated state of disrepair or other substandard condition is found and determined by the building inspector or, upon appeal from or report by the building inspector as hereafter provided, by the town council to be dangerous to life, health, or other property, or is in such condition as to constitute a fire or safety hazard or a public nuisance, the owner or owners of such building or structure shall be required to demolish and remove the same and remedy such conditions under the regulations and procedures herein provided; and in the event such owner fails or refuses to do so within the time directed by the building inspector or by the town council as hereinafter provided, the town council may in its judgment cause the same to be demolished and removed or cause such other steps to be taken as it may find to be necessary to suppress and abate the nuisance and remove the fire or safety hazard and danger to life, health or other property found to exist, and specially assess the cost and expense of doing such work against the lot or parcel of land on which such building or structure is located.

### **Notice and Hearing by Building Inspector Prior to Action by Town**

Before any building or structure may be ordered to be demolished and removed as provided in the previous section, the building inspector shall notify the owner or owners thereof, in writing, by certified or registered mail to the last known address of such owner, or by personal service of such notice by the building inspector or authorized representative of the town, or by posting notice as hereinafter provided, that such building or structure is in such condition as appears to constitute a fire or safety hazard or dangerous to life, health or other property, or to be a public nuisance, and that a hearing will be held before the building inspector at a designated time and place not less than ten days after the date of such written notice, at which time the owner shall be entitled to be heard in person or by counsel upon all legal or factual questions relating to the matter and shall be entitled to offer such evidence as he may desire which is relevant or material to the questions sought to be determined or the remedies sought to be effected. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice herein referred to shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question for at least ten days prior to the date fixed for public hearing and a notice of the hearing is published one time in a newspaper having general circulation in the town at least one week prior to the fixed date of the public hearing. Such notice shall state the address or location of the building or structure and the time, place and purpose of the hearing.

### **Order by Building Inspector to Remedy or Demolish**

If, upon such hearing, the building inspector shall find that the building or structure in question is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health or other property, or is a public nuisance, he shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy such conditions so found to exist by demolishing and removing such buildings or structures or taking other steps as may be necessary to abate the nuisance and removing the hazards, within such period, not less than sixty days, as the building inspector may prescribe .

### **Appeal from Decision of Building Inspector**

The owner of any building or structure ordered by the building inspector to be demolished and removed, or who is directed by the building inspector to take any other steps to abate a nuisance or remove hazards found by the building inspector to exist, shall have the right to appeal to the town council; provided that such owner gives notice of appeal to the building inspector at the time of the hearing at which the order is made, or within ten days after such order is made, he files with the building inspector a written notice of such appeal. Notice of appeal shall state the grounds therefore. Unless an appeal is taken within the time and in the manner herein described, the action of the building inspector shall be deemed final, subject only to such action as the town council may take as herein elsewhere provided. Where an appeal has been properly taken and notice thereof given in accordance with the provision of this section, it shall be the duty of the building inspector to report the same to the town manager, who shall cause the matter to be placed on the council agenda for action by the town council at its next regular meeting. The town council shall have the right to continue the hearing of the appeal from time to time, in its discretion.

### **Report by Building Inspector when Owner Fails to Comply**

In the event the owner does not appeal from the final order or direction of the building inspector requiring that the building or structure be demolished and removed or the taking of other steps as may be required to abate the nuisance and remove the hazards, and fails or refuses to comply with such order and direction, it shall be the duty of the building inspector to file a written report thereof with the town manager, who shall cause such report to be placed on the agenda for action by the town council at its next regular meeting or to some subsequent meeting to which the town council may continue the same. The building inspector shall mail a copy of the report by certified mail or registered mail to the owner at his/her last known address, or have a copy delivered personally to the owner. In said report, it shall specify the date of the meeting of the town council for which the matter will be docketed for action.

### **Order by the Council on Noncompliance by Owner; Assessment of Cost**

In all cases referred to in this chapter which reach the town council for action, either upon appeal of the owner from the ruling of the building inspector or upon report of the building inspector that the owner fails or refuses to comply with this order or direction, the council shall hear the matter, and if it finds and determines that the building or structure in question is in such dilapidated or substandard state of disrepair as to constitute a fire or safety hazard, or to be dangerous to life, health or other property, or is a public nuisance, and that the owner of such building or structure has failed or refused to abate the nuisance and has failed or refused to have such building or structure demolished and removed or has failed or refused to take such other action as may be necessary to abate the nuisance and remove the hazards found to exist, it may cause the demolition and removal of such building or structure to be done, or effect such other remedies as may be necessary to abate the nuisance and remove the hazards, and specially assess the cost of such work against the lot or parcel of land on which the building or structure was situated; and such assessment shall constitute a specific lien upon such lot or parcel of land which may be enforced by action in the name of the town.

### **When Notice of Hearing by Town Council Required**

In cases in which the building inspector has been unable to give the owner actual notice of hearing in the manner provided, and has given such notice by posting and publishing the same as previously prescribed, and the owner has failed or refused to comply with the order or direction of the building inspector to demolish and remove the building or structure, or take such other remedial action as will remove the hazards, and such case is referred to the town council for action, the council before taking such action, shall cause to be posted on the outside of the building at

least ten days before the date of the public hearing, and published one time in a newspaper of general circulation in the town, a written notice stating the address or location of the building or structure involved and the time, place, and purpose of the hearing, and other information the council may deem advisable.

### **Presumption of Danger to Public**

In all cases in which the town council, under the authority of this article, causes the demolition and removal of any building or structure to be carried out, or directs such other remedial steps to be taken as may be deemed to be necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire and safety hazard and danger to life, health or other property, created and maintained by the continued presence of such building or structure in such condition as is found to exist, constitute a clear and present danger amounting to a situation of emergency involving the public health, safety, and general welfare, which requires entry upon private property for the summary abatement and removal of such danger, in the public interest.

### **Willful Failure or Refusal to Comply with Article**

It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the building inspector or town council made by virtue and in pursuance of this article, and any person violating this article shall, upon conviction, be punished as provided by N.C.G.S. § 14-4 for violation of a municipal ordinance.

### **Exceptions**

Nothing in this ordinance shall apply to any building or structure not regularly used for human habitation and which is located on a farm, as that term is defined by the Zoning Ordinance of Davidson County in effect on the date of adoption hereof.