

ORDINANCE AMENDING CHAPTERS 6, 11, AND 17

OF THE GREENSBORO CODE OF ORDINANCES

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

Section 1. That Chapter 11 of the Greensboro Code of Ordinances is amended to strike the text of Section 11-45. The existing provisions within Section 11-45 are moved to Chapter 6 of the Greensboro Code of Ordinances, new Article VI, Nonresidential Building Code, with updated language as indicated herein.

Section 2. That Section 17-1, Nuisances prohibited; enumeration, and Section 17-5, Abatement by city where owner fails to abate, are amended to provide additional subsections as indicated herein.

Section 3. That Sections 17-2, 17-5, 17-6, 17-7, 17-8, and 17-57 are further amended to reflect nuisance-related administrative processes being within the scope of the powers and duties of the Chief of Code Compliance.

Section 4. That all amendments referenced in Sections 1 through 3 of this ordinance are reflected in the attached Exhibit A, which is incorporated into and made a part of this ordinance.

Section 5. All ordinances in conflict with the provisions of this ordinance are repealed to the extent of such conflict.

Section 6. This ordinance shall become effective upon date of adoption.

Chapter 6 – Buildings and Building Regulations

Article VI – Nonresidential Building Code

(Editor’s Note: New Article VI of Chapter 6 is a reorganization and update to provisions previously located in Chapter 11. The new Article is therefore provided in full below.)

Division 1 – General Provisions

Sec. 6-300. Short Title

This article shall be known and may be cited and referred to as the “Nonresidential Building Code of the City of Greensboro” and may be referred to within this article as “this code.”

Sec. 6-301. Purpose

Pursuant to G.S. § 160D-1129, it is the purpose of this code to establish minimum standards of maintenance, sanitation, and safety relating to nonresidential buildings or structures, in order to protect the health, safety, and welfare of the city and its residents and citizens including but not limited to owners and occupants of nonresidential buildings or structures, and to prevent and remedy the decay and deterioration of nonresidential buildings and structures. This code provides for the repair, closing or demolition of nonresidential buildings or structures as a result of a public necessity caused by conditions that are dangerous to the public health, safety and welfare.

Additionally, where vacant properties are in violation of these standards, such vacant properties pose special risks to the health, safety, and welfare of citizens and to the peace and dignity of the city and therefore require heightened regulatory attention. Pursuant to its general police power, it is the purpose and intent of the City to therefore adopt a registration requirement for vacant properties which exhibit violations of this code, to facilitate collaboration with property owners to ensure adequate maintenance and security of such vacant properties. Additionally, the city desires to deter crime and theft of materials, to minimize loss of property value to vacant properties and surrounding occupied properties, to reduce risk of damage from fire, flooding or other hazards, and to promote the comfort, happiness and emotional stability of area residents. The registration requirement identified herein is reflected at Sec. 6-334(d) of this article.

Sec. 6-302. Applicability; compliance

(a) The provisions of this code shall apply to all nonresidential buildings or structures which are now in existence or which may be built within the corporate limits of the city.

(b) Every nonresidential building or structure and the premises on which it is situated shall comply with the provisions of this code, whether or not such building or structure shall have been constructed, altered, or repaired before or after the enactment of this code, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities. This code establishes minimum standards for all nonresidential buildings or structures and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building or structure contained therein.

Sec. 6-303. Definitions

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

Agent means any person, firm or corporation who is responsible for the management, maintenance, operation, renting, leasing or sale of any property, or who makes application for or seeks a permit or certificate on behalf of the owner of any property or who in any other way represents the owner of the property in any particular case.

Alteration, as applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; as enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another; and the term "alter" in its various moods and tenses and its participle refers to the making of an alteration.

Approved, as applied to a material, device or mode of construction, means approved by the inspector under this code or by other authority designated by law to give approval in the matter in question.

Area:

(1) As applied to the dimensions of a building, means the maximum horizontal projected area of the building.

(2) As applied to the dimensions of a room, means the total square footage of floor area between finished walls.

Building means, for the purposes of this code, any structure built for the shelter or enclosure of persons, animals or property of any kind. The term "building" shall be construed as if followed by the phrase "or part thereof."

Close means securing the building or structure so that unauthorized persons cannot gain entrance.

Chief of compliance means the City of Greensboro's Chief of Code Compliance, who has been designated as the public officer to enforce this code. Consistent with

Demolish means the demolition and removal of the entire building or structure, leaving the property free and clear of any debris and without holes or pockets which may retain water.

Garbage means waste materials including, without limitation, the byproduct of animal or vegetable foodstuffs, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard waste, tins, metals, mineral matter, glass, crockery, dust and the residue from the burning of wood, coal, coke and other combustible material.

Infestation means the presence, within or around a building or structure, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or public.

Inspector means any person who is authorized by the chief of compliance to conduct inspections for the purpose of this code.

Nonresidential building or structure means any building or structure which is used or designed for any purpose other than residential occupancy, including accessory structures.

Owner means any person who alone, jointly, or severally with others:

(1) Shall have title in fee simple to, or hold mortgage or deed of trust in, any nonresidential building or structure, with or without accompanying actual possession thereof; or

(2) Shall have charge, care, or control of any nonresidential building or structure as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this code and of rules and regulations adopted pursuant thereto, to the same extent as if such person were the owner.

Party in interest means all individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

Pier means a masonry or other material support extending from the ground and footing to and supporting the building or portion thereof. Pier sizes and spacing shall conform to the specifications of the state building code.

Plumbing means and includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, mechanical sink grinders, waste pipes, water closets, sinks,

installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Premises or Property may be used interchangeably in this code, with both terms meaning any lot or parcel of land inclusive of any building, structures or improvements located thereon.

State building code means the North Carolina State Building Code or any superseding regulation.

Vacant means that a building or structure has not been used for its intended purpose or for any lawful purpose for a period of at least ninety (90) consecutive days.

Vacant industrial warehouse means 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 (1) year and has not been converted to another use.

Vacant manufacturing facility means 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 (1) year and has not been converted to another use.

Division 2 – Administration and Enforcement

Sec. 6-304. Designation and powers of the chief of compliance as public officer

The chief of compliance is hereby designated as the public officer pursuant to G.S. 160D-1129 with the authority to exercise the powers prescribed herein.

The chief of compliance is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this code, including the following powers:

- (a) To investigate the conditions of nonresidential buildings and structures in the city to determine whether they have been properly maintained in compliance with the minimum standards established by this code so that the safety or health of the occupants or members of the general public are not jeopardized;
- (b) To enter upon property for the purpose of making examinations and inspections provided that such entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession, if any;
- (c) To obtain a duly issued administrative inspection warrant in accordance with G.S. 15-27.2, if permission to enter is not granted by the owner, the owner's agent, a tenant, or other person legally in possession of the property;

- (d) To administer oaths and affirmations, examine witnesses, and receive evidence;
- (e) To appoint and fix the duties of such officers, agents, and employees as may be necessary to carry out the purposes of this code;
- (f) To delegate any of their functions or powers under this code to other officers and agents;
- (g) To take such action, together with other appropriate departments and agencies whether public or private, as may be necessary to effect compliance of nonresidential buildings or structures which are in an unsafe condition;
- (h) To issues notices of violation and impose civil penalties;
- (i) To keep a record of the results of inspections made under this code; and
- (j) To perform such other duties as may be prescribed by this code.

Sec. 6-305. Inspections

For the purpose of making inspections, the public officer is hereby authorized to enter, examine, and survey, at all reasonable times, any nonresidential building or structure as defined in this code. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative inspection 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.

The chief of compliance may, subject to the approval of City Council, adopt an inspection program that is based on complaints from tenants, residents, city employees, or stakeholder groups, that raise concerns about specific properties, based on direct knowledge of violations, visual observation of potential violations, or reasonable cause to believe that violations exist.

Sec. 6-306. Civil liability

Except as may otherwise be provided by statute or local law or ordinance, no officer, agent, or employee of the municipality charged with the enforcement of this code shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her/their duties under this code. No person who institutes, or assists in the prosecution of, a criminal proceeding under this code shall be liable to damages hereunder unless he/she/they acted with malice and without reasonable grounds for believing that the person accused was guilty of an unlawful act or omission.

Sec. 6-307. Procedure for enforcement

(a) *Preliminary 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 or abutting buildings or structures are jeopardized for failure of the property to meet the minimum standards established by this code, the public officer shall undertake a preliminary investigation.

(b) *Complaint and hearing.* If the preliminary investigation discloses evidence of a violation of the minimum standards established by this code, the public officer shall issue a complaint and cause it to be served upon the owner of and parties in interest in such nonresidential building or structure. The complaint shall state the charges and contain a notice that a hearing will be held before the public officer at a place therein fixed, not less than ten (10) days or more than thirty (30) days after the serving of such complaint. The owner or any party in interest shall have the right to correct the violation or 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. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing before the public officer.

(c) *Procedure after hearing; issuance of order.*

(1) If, after notice and hearing, the chief of compliance determines that the nonresidential building or structure has been maintained in that the property meets the minimum standards established by this code, the chief of compliance shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of said determination and the matter shall be closed.

(2) If, after notice and hearing, the chief of compliance 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 this code, the chief of compliance 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 in accordance with the provisions of either subsections (c)(3) or (c)(4) and subject to the limitations set forth in this code.

(3) If the chief of compliance determines that the cost of repair, alteration, or improvement of the nonresidential building or structure would not exceed sixty-five (65) percent of its then current value, then the chief of compliance shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, but not less than thirty (30) days nor more than ninety (90) days, to either:

- a. Repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by this code; or
- b. Vacate and close the nonresidential building or structure for any use.

(4) If the public officer determines that the cost of repair, alteration, or improvement of the nonresidential building or structure would exceed sixty-five (65) percent of its then current value, then the chief of compliance shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, but not less than thirty (30) days nor more than ninety (90) days, to either:

- a. Remove or demolish the nonresidential building or structure; or
- b. Repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this code.

(d) *Extensions of time granted by inspector; additional extensions by chief of compliance.* If, within the time fixed by the inspector for repairing, altering or improving such building, the inspector finds there has been substantial compliance with the provisions of the order or that the owner has filed with the inspector a written request for additional time to make repairs and provides written documentation for the need of additional time, the inspector may extend the time for compliance with the provisions for the order for an additional period of time; however the total time given by an inspector, including all extensions, shall not exceed ninety (90) days. The chief of compliance or their designee may grant additional extensions upon receipt of a written request stating the reasons for the extension, including any written supporting documentation, during the initial period or any extension period granted by the inspector. The grant of any extensions, either by an inspector or by the chief of compliance or their designee, shall be in writing and must state the cause and conditions of the extension, facts demonstrating substantial progress being made toward compliance, and the amount of time allowed by the extension.

(e) *Failure to comply with order; adoption of ordinance by the minimum housing standards commission.*

(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 minimum housing standards commission may adopt an ordinance ordering the public officer to proceed to effectuate the purposes 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 shall be 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 minimum housing standards commission 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 body. 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.

Sec. 6-308. Limitations on orders and ordinances -- Historic landmark or historic district

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 minimum housing standards commission determines, after a public hearing, 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, an order issued by the chief of compliance or an ordinance approved by the minimum housing standards commission pursuant to this code may only require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this code.

Sec. 6-309. Limitations on orders and ordinances – Vacant manufacturing facility or vacant industrial warehouse

Notwithstanding any other provision of law, an order issued by the chief of compliance or an ordinance approved by the minimum housing standards commission pursuant to this code 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 and ordinance 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.

Sec. 6-310. Abandonment of intent to repair, vacated and closed nonresidential buildings or structures

(a) If the minimum housing standards commission 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 (2) years pursuant to the ordinance or order, then the minimum housing standards commission may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the city in that it would continue to deteriorate, would create 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 minimum housing standards commission may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) When 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 (50) percent of its then current value, the ordinance shall require that the owner either: (1) demolish and remove the nonresidential building or structure within ninety (90) days; or (2) repair, alter, or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this code within ninety (90) days; or

(2) When the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty (50) percent of its then current value, the ordinance shall require the owner to demolish and remove the structure within ninety (90) days.

(b) 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 (5) years before the minimum housing standards commission may take action under this subsection.

(c) The ordinance shall be recorded in the Office of the Register of Deeds for Guilford County and shall be indexed in the name of the property owner in the grantor index.

(d) If the owner fails to comply with the requirements of the ordinance, the chief of compliance shall demolish and remove the nonresidential building or structure.

Sec. 6-311. Methods of service of complaints and orders

(a) Complaints or orders issued by a public officer under this code shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order 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 ten (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.

(b) 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 city at least once no later than the time that personal service would be required under the provisions of this code. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

Sec. 6-312. Lis pendens

Any complaint and notice of hearing or order issued pursuant to this code may be filed in the notice of lis pendens in the office of the clerk of the superior court. A copy of the complaint containing a notice of hearing or a copy of the order shall be attached to the lis pendens. When the lis pendens is filed with the clerk, it shall be indexed and cross-indexed in accordance with the indexing procedures of G.S. 1-117 and it shall be served on the owners of and parties in interest in the building or structure. From the date and time of indexing the complaint and notice of hearing or order, it shall be binding upon the successors and assigns of the owners of and parties in interest in the building or structure. The chief of compliance may cancel the lis pendens upon his determination that the owner of the building or structure has fully complied with the chief of compliance's order.

Sec. 6-313. Costs a lien on the property

(a) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be 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 G.S. Ch. 160A, Art. 10.

(b) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be 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 subsection is inferior to all prior liens and shall be collected as a money judgment.

(c) If the nonresidential building or structure is removed or demolished by the public officer, the public officer 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 body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Sec. 6-314. Minimum housing standards commission to hear appeals

Where compliance with the order of the chief of compliance, or where the literal application of the provisions of this code, would appear to cause undue hardship on an owner or other party in interest, or when it is claimed that the true intent and meaning of this code or any of the minimum standards or requirements herein have been wrongly interpreted, the owner or other party in interest may appeal from the order of the chief of compliance to the minimum housing standards commission.

(a) Notice of appeal shall be in writing and filed with the chief of compliance within ten (10) days after service of the order of the chief of compliance. The appeal shall be placed on the agenda for hearing at the first available minimum housing standard commission meeting. In the absence of an appeal, the order of the chief of compliance shall be final.

(b) Upon any such appeal and after a hearing, the minimum housing standards commission may extend the time for compliance with the chief of compliance's order, or vary the application of any provisions of this code in hardship cases when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this code or to the public interest, or when, in its opinion, the interpretation of the chief of compliance was wrong and should be modified or reversed. In hardship cases, a hardship peculiar to the appellant must be shown.

(1) Any such decision to extend the time for compliance with an order of the chief of compliance, or to vary the application of any provision of this code or to modify an order of the chief of compliance shall specify in what manner such extension, variation, or modification is made, the conditions upon which it is made, and the reasons therefore.

(c) All decisions of the minimum housing standards commission entered pursuant to this code shall be in writing and shall be promptly filed in the office of the chief of compliance. Such decisions shall be open to public inspection and a certified copy shall be sent by mail, or otherwise, to the appellant.

Sec. 6-315. Temporary injunction remedy for aggrieved persons and certiorari review

(a) Any person aggrieved by an order issued by the chief of compliance or a decision rendered by the minimum housing standards commission may petition the superior court of an injunction restraining the chief of compliance from carrying out the order or decision. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. A hearing on the petition shall be as provided in G.S. 160D-305; 160D-1208.

(b) Every decision of the minimum housing standards commission pursuant to this code shall be subject to review by the superior court by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision.

Sec. 6-316. 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 city to remove the occupant. The action to vacate shall be 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 ten (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 minimum housing standards commission 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 thirty (30) days before the filing of the summary ejectment proceeding, that the minimum housing standards commission has ordered the public officer to proceed to exercise his duties to vacate and close or remove and demolish the nonresidential building or structure.

Sec. 6-317. Violations; penalty; fees; remedies

(a) It shall be unlawful for the owner of any nonresidential building or structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or remove or demolish the same, upon order of the chief of compliance duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense.

(b) It shall be unlawful for the owner or agent of the owner in charge of such nonresidential building or structure with respect to which an order has been issued pursuant to this code, to occupy or permit the occupancy of the same in a dilapidated or deteriorated condition found to be unfit for any use in violation of such order for its repair, alteration or improvement or its vacation, closing or demolition, and each day that such unlawful occupancy continues after the expiration of the time prescribed in the order to repair, alter, improve, vacate, close or demolish such nonresidential building or structure shall constitute a separate and distinct offense.

(c) Any person that fails to comply with any of the provisions of this code shall be subject to an initial civil penalty in the amount of five hundred dollars (\$500) for the first day of noncompliance and one hundred dollars (\$100) for each day thereafter until the violation is remedied.

(d) If, within a rolling twelve (12) month period, there is an additional violation of this Article at a property, the owner shall be subject to an additional civil penalty of one thousand dollars (\$1,000) for that violation. For each day the violation is not corrected, a penalty of two hundred fifty dollars (\$250) per day may be imposed.

(e) These civil penalties may be recovered by the city in a civil action in the nature of debt if the person does not pay the same within thirty (30) days after the initial day of noncompliance.

Sec. 6-318. Alternative remedies

Enforcement by any remedy provided in this code shall not prevent enforcement by any other remedy provided in this code or in other ordinances or laws.

Sec. 6-319. Conflict with other provisions; severability

If any provision, standard, or requirement of this code is found to be in conflict with any other ordinance or code of the city, the provision which establishes the higher standard of more stringent requirement for the promotion and protection of health and safety of the citizens of the city shall prevail.

If any section, subsection, paragraph, sentence, clause, or phrase of this division is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this division. The city council hereby declares that it would have passed the ordinance from which this division derives, and each section, subsection, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, paragraphs, sentences, clauses, or phrases are declared invalid.

Sec. 6-320 through 6-329. [Reserved]

Division 3 – Maintenance and Related Standards

Sec. 6-330. Maintenance standards in general

Only electrical, mechanical and plumbing devices and systems which are (i) intended to be used at the time of inspection; (ii) being used at the time of inspection; or (iii) required by law at the time of inspection are subject to the applicable portions of this code.

Upon discovery of any possible violation related to provisions of the North Carolina State Building Code or the North Carolina Fire Code, including fire protection and life-safety systems, a referral shall be made to the Chief Building Inspector and/or to the Greensboro Fire Department, fire marshal's office, for inspection and enforcement.

Sec. 6-331. External maintenance standards

(a) Exit requirements.

(1) Minimum number of exits shall conform to the requirements of the state building code as applicable.

(2) Every stairway, deck, porch, and balcony, and all appurtenances attached thereto, including without limitation, handrails and guardrails, shall be maintained in a structurally sound condition and compliant with all other applicable standards in this article. Each shall be properly anchored and capable of supporting live or dead loads.

(b) Electrical facilities.

(1) No receptacles, ceiling fixtures, or other fixtures shall be hanging loose, unless designed and rated for that purpose.

(2) All switches and receptacles shall be safe.

(3) There shall be no unsafe wiring.

(4) There shall be no drop or extension cords in excess of six feet in length used in place of permanent wiring.

(5) No circuits shall be overloaded.

(6) Fuses shall be sized correctly and not bridged out.

(7) All wiring shall be in accordance with the National Electrical Code.

(8) All breaker boxes, wiring, junction boxes, busways, or other electrical enclosures shall be in good condition and maintained to prevent shock hazard.

(c) Exterior walls.

(1) There shall be no unsafe wall conditions such that the plumbline from the top center of studs falls outside the base plate at any point along the wall.

(2) Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.

(3) Studs or other structural members shall be structurally sound and not likely to cause structural weakness in the future.

(4) There shall be no broken or cracked structural members.

(5) All siding shall be reasonably weathertight, with no holes or excessive cracks or decayed boards, or siding material.

(6) There shall be no loose siding.

(7) There shall be no deterioration because of lack of preventative maintenance consisting of painting, waterproofing and repair.

(8) All door fenestration shall be in operable condition.

(d) Roofs.

(1) All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the dead and live loads, including rafters and ceiling, or floor joists.

(2) The roof and flashing shall be sound, tight and not have defects which admit water or rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior of the structure. Roof drains, gutters, scuppers, and downspouts shall be maintained in good repair, and free from obstructions. Roof water shall not be discharged in a manner that creates a health or safety hazard.

(e) Porches, vestibules and external covered areas.

(1) The floor, ceiling, and roof shall be equal to requirements set forth in this code, except sills, joists and floors need not be level if providing drainage of floors; floors need not be weathertight.

(2) Every stairway, deck, porch and balcony, and all appurtenances attached thereto, including, without limitation, handrails and guardrails, shall be maintained in a structurally sound condition and compliant with all other applicable standards in this article. Each shall be properly anchored, and capable of supporting imposed loads.

(f) Windows, where provided, including frames, sash components, and glazing shall be maintained in good condition, with no broken, cracked, or missing glazing.

(g) Property maintenance.

(1) Building structure. Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative with sufficient frequency to prevent deterioration.

(2) Open areas. There shall be no heavy undergrowth or accumulation of plant growth which is noxious or detrimental to health, or because it is overgrown, may provide harborage for criminal activity.

(3) Infestation. Grounds, buildings and structures shall be maintained free of infestation by rodents, insects and other pests.

(4) Chimneys and towers. All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

Sec. 6-332. Interior maintenance standards

In general. The interior of a structure, including wall and ceiling coverings, and equipment therein shall be maintained in good order, shall be structurally sound, and be in a sanitary condition. Occupants shall keep that part of the building or structure which they occupy or control in a clean and sanitary condition.

(a) *Exit requirements.* Minimum number of exits shall conform to the requirements of the state building code as applicable.

(b) *Plumbing systems and facilities.*

(1) In general, all fixtures and piping shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects. All plumbing shall be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

(2) Plumbing fixtures shall have adequate clearance for usage and cleaning.

(3) Where it is found that a plumbing system in a building or structure creates an unsafe condition that is hazardous to the occupants, or by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation deterioration or damage, or for similar reasons, the chief of compliance shall require the defects to be corrected to eliminate the unsafe condition.

(c) *Heating facilities.*

(1) Building shall be weatherproof.

(2) Heating systems shall be maintained in good order and repair and shall be of sufficient capacity so as to heat all occupied areas in accordance with the state building code.

(3) All safety controls and all clearances to combustible materials for electrical equipment which produces heat shall be maintained in effective operation.

(4) Other heating facilities, where provided, shall meet the requirements of the state building code.

(5) All electric, gas and heating oil heating equipment installed on the property shall be listed by Underwriters' Laboratories, Inc. or American Gas Association and installed in accordance with the provisions of the state building code.

(6) All mechanical appliances, including ventilation and air conditioning or cooling systems, or appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

(7) All fuel burning equipment or appliances shall be connected to an approved chimney or vent. Fuel burning equipment and appliances labeled for unvented use are an exception to this requirement.

(8) All required clearances to combustible materials shall be maintained.

(9) All safety controls for fuel burning equipment shall be maintained in effective operation.

(d) *Electrical facilities.*

(1) No receptacles, ceiling fixtures, or other fixtures shall be hanging loose unless designed and rated for that purpose.

(2) All switches and receptacles shall be safe.

(3) There shall be no unsafe wiring.

(4) There shall be no drop or extension cords in excess of six feet in length used in place of permanent wiring.

(5) No circuits shall be overloaded.

(6) Fuses shall be sized correctly and not bridged out.

(7) All wiring shall be in accordance with the National Electrical Code.

(e) *Structural standards.*

(1) *Foundation.*

a. Beneath the building or structure there shall be firm ground, which is reasonably dry, properly drained and no water shall be running under the building or structure.

b. There shall be sound footings and adequate bearing.

c. There shall be sound piers and no loose mortar or masonry.

d. There shall be no piers in which the plumbline from the top center falls outside the middle one-third of the pier base.

e. There shall be no isolated masonry piers exceeding in height ten times the least dimension of the pier.

f. There shall be no wood stiff-knee piers.

(2) *Floors.*

- a. Flooring shall be weathertight without holes or excessive cracks which permit air to penetrate rooms.
- b. Flooring or floor covering shall be reasonably smooth and not decayed, fire damaged or worn through.
- c. There shall be no loose flooring.
- d. Floors shall be reasonably level.
- e. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the dead and live loads.

(3) *Interior load bearing walls.*

- a. There shall be no unsafe wall conditions such that the plumbline from the top center studs falls outside the base plate at any point along the wall.
- b. Maximum spacing for studding, providing the studs show signs of being weak or overloaded, shall comply with the requirements of the state building code.
- c. Studs or other structural members, including posts and columns, shall be structurally sound and not likely to cause structural weaknesses in the future.
- d. There shall be no broken or cracked structural members.

(4) *Interior porches, landings and vestibules.*

- a. The floor and ceiling shall be equal to the requirements set forth in this code.
- b. Every stairway, deck, porch and balcony and all appurtenances attached thereto, including, without limitation, handrails and guardrails, shall be maintained in a structurally sound condition and in good repair.
- c. Any interior porch, landing or vestibule shall be properly anchored and capable of supporting live and dead loads.

Sec. 6-333. Property maintenance standards

(a) *Building structure.* Storage of combustible materials is prohibited unless the building or structure is designed for that purpose.

(b) *Open areas.*

(1) Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant pools.

(2) Fences, sheds, signs, outbuildings, and other accessory buildings shall be maintained in a safe and functional condition or removed or demolished.

(3) Yards, courts, parking lots, and driveways shall be kept clean and free of physical hazards, garbage, junk, junked vehicles, vehicle parts and other similar material.

(4) There shall be no heavy undergrowth or accumulation of plant growth which is noxious or detrimental to health, or because it is overgrown, may provide harborage for criminal activity.

(5) There shall be adequate lighting to prevent harborage for criminal activity.

(c) *Infestation.* Grounds, buildings and structures shall be maintained free of infestation by rodents, insects and other pests.

(d) *Garbage.* There shall be adequate sanitary facilities and methods for the storage, handling and disposal of garbage generated on or by the property.

(e) *Storm drainage.* Drainage of paved areas, yards, courts and other open areas on the property shall not be discharged in a manner that creates a health or safety hazard.

Sec. 6-334. Vacant buildings or structures

(a) The interior maintenance standards set forth in Sec. 6-332 shall not apply to vacant nonresidential buildings or structures (or vacant portions thereof if required fire separation exists between the occupied and unoccupied portions of the building or structure) unless one or more of the following serious conditions is present on the property:

(1) Overall conditions present a serious health or safety hazard.

(2) The building or structure is a breeding area for rodents or insects.

(3) The building or structure presents a fire hazard.

(4) The building or structure is structurally unsafe and presents a threat to the safety of code enforcement personnel, fire department personnel and law enforcement officers or members of the general public.

(5) The building or structure is not properly secured to prevent unauthorized access, including by vagrants.

(b) Vacant properties subject to this article shall be maintained in a secure manner as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (including but not limited to walk-through, sliding, and garage doors), gates, and any other openings of such size that it may allow a child to access the interior of the property or structures.

(c) If the chief of compliance orders a nonresidential building or structure vacated and closed pursuant to this code, the owner shall board and secure such building or structure in accordance with the guidelines for boarding and securing a building or structure provided by the chief of compliance. Windows and doors which are boarded for longer than six (6) months shall be painted or covered to appear consistent with the remainder of the building exterior.

(1) Notwithstanding the above, buildings or structures located within the City's Central Business District and/or the Downtown Business Improvement District (BID), shall not have ground floor windows boarded, papered over, or otherwise similarly covered for longer than three (3) months. This applies regardless of whether the building or structure was vacated by the owner or pursuant to an order of the chief of compliance. After such three (3) month period, vacant buildings or structures within the Central Business District and/or Downtown Business Improvement District (BID) shall have window coverings such as curtains, blinds, or shutters.

(d) If a vacant property is found to be in violation of the standards contained within this article, or if a property becomes vacant while such a violation has not been remedied, the owner of that vacant property shall register the property with the City.

(1) Procedural steps for registration requirement

a. The City shall send a Notice of Registration Requirement to the property owner concurrently with documentation outlining any violations of this article.

b. The property owner shall register such property within thirty (30) days of the date of the Notice of Registration Requirement, unless the owner demonstrates to the

City within that same period that the property is no longer in violation. Extensions may be granted in a manner consistent with the provisions of Sec. 6-307(d).

c. The registration information shall be provided in a form approved by the chief of compliance and contain the following information: (i) The name of the property owner; (ii) the mailing address, telephone number, and any other contact information of the property owner; and (iii) the name, mailing address, telephone number, and any other contact information for a local agent, if the property owner does not have their primary residence or principal place of business within Guilford County or an adjacent county.

d. Any changes in the required information for a registered property shall be reported to the chief of compliance within thirty (30) days of such changes.

e. If, once a property is registered pursuant to this section, there are no documented violations at the property for a period of twenty-four (24) months, the property owner shall not be required to further maintain the registration with the City. Any subsequent violations of this article shall reintroduce the registration requirement.

(2) Enforcement of registration requirement

a. The registration requirement may be enforced through the issuance of civil penalties as outlined in Sec. 6-317. Each day's continuing violation shall be a separate and distinct offense. These civil penalties may be recovered by the City in a civil action in the nature of debt if the person does not pay the same within thirty (30) days after the initial day of noncompliance.

b. In seeking compliance with this section, the City may pursue any remedies available pursuant to G.S. 160A-175 including, if necessary, orders of injunction or any appropriate equitable remedy.

c. Any appeal of this registration requirement may be heard by the minimum housing standards commission pursuant to Sec. 6-314.

Chapter 11 – Housing Code

Article II – Administration and Enforcement

Division 2 – Non-Residential Buildings and Structures

Sec. 11-45. – Good repair

The language of Sec. 11-45 is hereby stricken in full.

Chapter 17 – Nuisances

Article I – Nuisances

(Editor’s Note: Text added to each provision is shown bold with underlines and deleted text shown with strikethroughs.)

Sec. 17-1. Nuisances prohibited; enumeration.

(a) The following enumerated and described conditions are found, deemed and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare of the inhabitants of the city and are found, deemed and declared to be public nuisances wherever the same may exist and the creation, maintenance, or failure to abate any nuisances is hereby declared unlawful. The natural conditions on lands dedicated to and/or accepted by the city as natural stream corridors, floodplain and/or open space which are established in order to preserve natural greenways, vegetative stream buffers, and/or natural connecting networks along floodways, streams and creeks are deemed and declared as exceptions for the purpose of enforcement of this article.

(1) Any condition which constitutes a breeding ground or harbor for rats, mosquitoes, harmful insects, or other pests.

(2) Any place of dense growth of grass, weeds or other noxious vegetation over twelve (12) inches in height, except for ornamental grasses chosen for features like color and form, such as switch grass, pampas grass, fountain grass, and bamboo, and with the following provisions:

a. A parcel consisting of adjacent vacant lots, under the same ownership, will be considered as one (1) lot.

b. Exceptions for lots exceeding one (1) acre in size, or a parcel with combined adjacent vacant lots exceeding one (1) acre in total size, or lots covered with trees:

1. These lots shall be maintained to a depth of twenty (20) feet from the improved road surface for all dense growth and noxious vegetation where the main trunk, main stem, or main shaft is less than one (1) inch in thickness.

2. If and only if the adjacent property is occupied by a dwelling or other structure, lots exceeding one (1) acre, vacant undeveloped lots, or lots covered with trees shall be maintained to a depth of twenty (20) feet from the side and rear property lines for all dense growth and noxious vegetation where the main trunk, main stem, or main shaft of vegetation is less than one (1) inch in thickness.

c. Natural landscape areas and wooded lots shall be allowed under the following conditions:

1. Natural landscape areas and wooded lots shall be maintained and shall not harbor, create nor allow to exist any condition defined as a nuisance or determined by the code enforcement officer to be a condition which poses a health hazard for the general welfare of the public;

2. Natural landscape vegetation shall not overhang into the public right-of-way nor into adjoining properties; and

3. Natural landscape areas shall utilize borders to define the areas. Borders may consist of, but not be limited to, edging material, an edge of low plants, wood, timber, or stone or woodchips.

(3) An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials or objects of a like nature.

(4) An open place of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind.

(5) Hides, dried or green, provided the same may be kept when thoroughly cured and odorless.

(6) Any furniture, or metal products of any kind or nature openly kept which have jagged edges of metal or glass, or areas of confinement.

(7) Any condition which blocks, hinders, or obstructs in any way the natural flow of water in swales, streams, creeks, surface waters, ditches, or drains, to the extent that standing water is created on the premises.

(8) Structures, remains of structures or lots with a condition that is detrimental, dangerous, or hazardous to the public safety, health and welfare. For purposes of the enforcement of this subsection, this shall be a condition, which consists of one (1), or more, of the following:

- a. Glass, metal, or other sharp objects in accessible areas;
- b. Unstable structures or trees which may fall or collapse;
- c. Holes, excavations, surviving foundations or walls that may collapse or create heights in excess of three (3) feet in areas where they may be scaled;
- d. Any substance which is hazardous or harmful to humans or pets; and
- e. Any open or accessible utility lines such as natural gas, water, sewer, or electrical.
- f. Structures and remains of structures open to the elements, which are a danger to children, or tend to attract vagrants, or persons intent on criminal activities or other activities that would constitute a public nuisance.
- g. Structures ordered closed by a code compliance officer, the Minimum Housing Commission or other quasi-judicial authority which are reopened without cause or justification.

Any owner of property, which is in non-compliance with this subsection, may enclose the portions of their property in violation with a secure fence of five (5) feet in height, which prevents the entry of humans until such time as the property is repaired to Code standards or completely demolished and is no longer in a detrimental, dangerous or hazardous state. Such enclosure shall be deemed in compliance with this subsection provided the enclosed nuisance condition does not and will not reach beyond the perimeter of the property.

(9) Obstructions or vegetation in the public right-of-way which a pose danger to the general public.

(10) Appliances, which are designed for indoor use, stored outside, however, these appliances may be kept inside the primary structure or in accessory structures, designed to withstand the elements and having a roof, wall, and door(s).

(11) Household furniture, which is not designed to withstand the elements, stored outside or placed on porches, decks or landings, or in accessory structures, or in yards or any

other area which provides a location where insects, rodents, or other vermin may breed or may reasonably be expected to breed. This section shall not prohibit the use of household furniture in a totally enclosed porch, designed to withstand the elements and having a roof, walls, screens, or glass windows.

(12) Any graffiti, as defined in and prohibited by section 18-8 of this Code.

(13) Any littered condition created by leaving materials which are partially or wholly rusted, wrecked, dismantled, junked, discarded, or otherwise in an inoperative condition and which are not completely enclosed within an enclosed structure. Examples of such materials include, but are not limited to, dilapidated furniture, appliances, machinery, equipment, building materials, automotive parts, tires, discarded clothing or household items, or any other items.

(14) Any condition detrimental to the public health which violates the rules and regulations of the county health department or that injures or causes discomfort to the community at large, endangers life, generates disease or has a detrimental effect on the public health, safety and welfare.

(15) Any potholes, obstructions, or similar conditions, which the city shall determine to be a public health or safety hazard, and which is located on private property available for use to the general public.

(16) Any uncontrolled growth and spread, by crossing any lot boundary or parcel of land, either by roots, vegetative growth or seed drop of kudzu, poison sumac, poison ivy, poison oak, or other noxious vegetation or invasive plant as identified by the North Carolina Forest Service or the North Carolina Department of Agriculture.

(b) For the purpose of enforcement of this article, an open place is defined as an area of property or portion thereof that is open, including building openings of residential dwelling units that are open to the exterior, such as attached carports, or porches, and any other exterior portions of properties ordinarily exposed to public view.

Sec. 17-2. – Notice to abate; emergency abatement by city.

(a) If any person shall violate the provisions of section 17-1, it shall be the duty of the **chief of code compliance** ~~director of neighborhood development~~ or their designated representative to give notice to the owner or to any person in possession of the subject property, as provided by section 17-3, directing that all unlawful conditions existing thereupon be abated within ten (10) days from the date of such notice; provided, that if, in the opinion of the **chief of code compliance** ~~director of neighborhood development~~ or their designated representative, the unlawful condition is such that it is of imminent

danger or peril to the public, then any authorized representative may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property as is provided in section 17-5.

(b) The chief of code compliance ~~director of neighborhood development~~ or their designated representative may enter upon the premises for the purpose of abating the nuisance and may summarily remove, abate, or remedy any condition in the city limits that is a prohibited nuisance under section 17-1.

Sec. 17-5. – Abatement by city where owner fails to abate.

(a) Upon the failure of the owner or person in possession of any premises to abate any unlawful condition existing thereupon within the time prescribed by section 17-2, it shall be the duty of an authorized ~~neighborhood development~~ code compliance representative to cause the removal and abatement of such unlawful condition therefrom. This representative may enter upon the premises involved for the purpose of abating the nuisance found to exist under this article.

(1) If the city abates graffiti pursuant to this section, in no case shall the city paint or repair any area obscured by graffiti more extensively than where the graffiti itself is located. The city shall not be required to restore the obscured area to its original condition (i.e. color, texture, etc.).

(b) Upon completion of such removal and abatement, the ~~neighborhood development~~ ~~director~~ chief of code compliance or their designated representative shall deliver to the city tax collector a statement showing the actual costs of the abatement of the unlawful condition plus an additional fee of ~~ten (10)~~ twenty (20) percent of the total cleanup costs with a minimum of ~~one~~ two hundred dollars (~~\$100.00~~) (\$200.00) to cover the cost of notice and costs of collection as a civil penalty.

(1) If, within a rolling twelve (12) month period after a nuisance is removed and abated pursuant to Sec. 17-5(b), a second violation of this chapter is removed and abated by the City at the same property, the chief of code compliance or their designated representative shall deliver to the city tax collector a statement showing the actual costs of the abatement of the unlawful condition plus an additional fee of thirty (30) percent of the total cleanup costs with a minimum of three hundred dollars (\$300.00) to cover the cost of notice and costs of collection as a civil penalty.

(2) If, within a rolling twelve (12) month period after a nuisance is removed and abated pursuant to Sec. 17-5(b), a third violation of this chapter is removed and abated by the City at the same property, the chief of code compliance or their designated representative shall deliver to the city tax collector a statement showing the actual costs of the abatement of the unlawful condition plus an additional fee of fifty (50) percent of the

total cleanup costs with a minimum of five hundred dollars (\$500.00) to cover the cost of notice and costs of collection as a civil penalty.

(c) Civil penalties assessed under this section are considered restorative; intended to provide compensation to the city for costs associated with the city's program to monitor, control, prosecute, cure and/or correct the violation. As such, the amount declared herein is presumed to provide sufficient restoration to the city for its costs. The assessment of civil penalties herein is not intended to be an exercise of powers delegated to other agencies or entities created by the general assembly to regulate the proscribed conduct. Violations of this article shall not be punishable as a misdemeanor or infraction and G.S. § 14-4 shall not apply to violations of this chapter. The city tax collector shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained, and the amount of the bill shall become a lien upon the property, and if not paid within thirty (30) days shall be collected as in the manner provided for the collection of delinquent taxes.

(e)(d) Any city employee charged with enforcements and collection of abatement costs or civil penalties may, in consultation with the appropriate director and city attorney, reduce the penalties or costs assessed, based on criteria set forth in departmental guidelines. Modification of penalties by the director, the designee, or the city attorney may be appealed to the minimum housing standards commission in accordance with section 11-49 of the Code.

Sec. 17-6. – Appeals.

Within the ten-day period mentioned in section 17-2 hereof, the owner of the property where the nuisance exists may appeal the findings of the **chief of code compliance** ~~director of neighborhood development~~ or their designated representative to the minimum housing standards commission by giving written notice of appeal to the **chief of code compliance** ~~director of neighborhood development~~ or their designated representative. An appeal stays the abatement of the nuisances until a final determination by the commission. In the event no appeal is taken, the **chief of code compliance** ~~director of neighborhood development~~ or their designated representative department may proceed to abate the nuisance.

Sec. 17-7. – County health officer may exercise current authority

It is the intention of this article that any authorized representative of the **chief of code compliance** ~~director of neighborhood development~~ or their designated representative shall be primarily responsible for the enforcement of the provisions of this article; but the county health officer shall, in any case where he/she/they deems it advisable to act, have all the authority conferred by this article, and any notice served for the purpose of this article, by, or by authority of the county health officer and any charge made by the county health officer in accordance with the provisions of section 17-5, subsection (b), shall be as valid as if made by the director of neighborhood development or their designated representative.

Sec. 17-8. – Civil liability for illegal disposal

(a) *Purpose.* Throughout the city, trash, refuse, rubbish, hazardous wastes, and other unwanted items are being disposed of on or about public and private property, contrary to federal, state, and local laws and regulations, such as, but not limited to, sections 25-6 and 26-11 of the Greensboro Code of Ordinances (collectively, referred to as "illegal disposal"). This ordinance is intended to deter those individuals and businesses who are attempting to avoid paying the costs associated with properly disposing of unwanted refuse and to offset the city's costs to deter these actions and to clean up the resulting environmental and health hazards created thereby. Though North Carolina has criminal provisions addressing illegal disposal, the criminal process is not always efficient at deterring behavior and recuperating the costs associated with this illegal disposal. Therefore, pursuant to North Carolina G.S. 160A-185, the city hereby appoints "environmental enforcement officers" and provides enforcement by civil penalties.

(b) *Environmental enforcement officers.* For the purpose of investigating illegal disposal, assessing civil penalties against violators or owners, as provided in subsection (c) below, accepting affidavits to allow an owner to avoid a civil penalty, as allowed in subsection (d) below, and presenting evidence in the event of an appeal, as allowed in subsection (f) below, the city hereby delegates to the city manager the authority to designate the appropriate staff who shall act as environmental enforcement officers.

(c) *Civil penalties.* The civil penalties set out herein may be assessed against any person (hereinafter "violator") who illegally disposes and against the registered owner (hereinafter "owner") of any motor vehicle that is used in the act of illegally disposing, where there is sufficient evidence, such as, but not limited to, photographic evidence of the license tag and the make and model of the vehicle and of the act of illegal disposal. The violator or owner shall be assessed a civil penalty of five hundred dollars (\$500.00) for the first occurrence and shall be assessed a civil penalty of one thousand dollars (\$1,000.00) for each subsequent offense, regardless of whether different vehicles registered to the same owner are used in separate violations. Civil penalties assessed under this section are considered restorative; intended to provide compensation to the city for costs associated with the city's program to monitor, control, cure, and/or correct the violation and to provide public education and outreach. As such, the amount declared herein is presumed to provide sufficient restoration to the city for its costs. The assessment of civil penalties herein is not intended to be an exercise of powers delegated to other agencies or entities created by the general assembly to regulate the proscribed conduct. Violations of this article shall not be punishable as a misdemeanor or infraction and G.S. § 14-4 shall not apply to violations of this chapter. The city shall thereupon mail to the violator or to the owner a bill reflecting the civil penalties assessed and, if not paid within thirty (30) days, may be collected as a debt as allowed by law.

(d) *Avoidance of civil penalty.* The owner shall be responsible for the civil penalty issued herein unless successfully appealed, as allowed in subsection (f) below, or unless the owner, within thirty (30) days after notification of the violation, furnishes the environmental enforcement officer which issued the citation either of the following:

(1) An affidavit stating the name and address of the person or company who had the care, custody, and control of the vehicle; or

(2) An affidavit stating that the vehicle involved was, at the time, stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information.

(e) *Service of notice.* The violator or the owner shall be notified of the assessed civil penalty by personal delivery of said notice or by regular and registered or certified mail, return receipt requested. If such registered or certified notice is refused or is returned unclaimed, but the regular mail is not returned by the post office within ten (10) days after the mailing, the service shall be deemed sufficient. The person mailing such notice of violation by regular mail shall certify that fact and the date thereof and such certificate shall be deemed conclusive in the absence of fraud. Any such notice may be served by any environmental enforcement officer. The civil penalty assessed herein shall not be collectable if notice of the civil penalty is not served in accordance with this subsection within ninety (90) days after the date of the violation.

(f) *Appeal.* Within thirty (30) days of service of the notice of the assessed civil penalty, the violator or owner may appeal issuance of the civil penalty to the minimum housing standards commission by giving written notice of appeal to the **chief of code compliance** ~~director of neighborhood development~~ or their designated representative. The appeal before the minimum standards housing commission is limited to determine whether the notice of the civil penalty was properly served and whether the violator participated in illegal disposal or the owner's motor vehicle was used in the act of illegal disposal. The concurring vote of four (4) members of the minimum housing standards commission shall be necessary to reverse the issuance of the civil penalty assessed herein.

Sec. 17-57. – Hearing.

(a) The owner or any other person entitled to claim possession of the vehicle towed pursuant to this article may request a hearing either before towing or after towing of the motor vehicle. The only issue at this hearing is whether or not the city can demonstrate probable cause to tow the motor vehicle. The request shall be filed with the code enforcement officer, and he/she/they shall set the hearing within seventy-two (72) hours of receiving the request. The owner or any other person entitled to claim possession of the vehicle shall be notified of the time and place of the hearing, the specific grounds for the classification of the vehicle as an abandoned vehicle or a junked vehicle, and the reason for removal

of the vehicle. The **chief of code compliance** ~~director of neighborhood development~~ or their designee shall be the hearing officer.

(b) The owner and any other interested parties may present evidence at the hearing and may cross-examine all parties.

(c) If the hearing is pre-tow and the hearing officer finds that the city has probable cause, the motor vehicle will be removed and the cost for removal will become a lien on the motor vehicle. If the hearing officer finds that probable cause does not exist, the city will not tow the vehicle and no costs shall be charged.

(d) If the hearing is post-tow and the hearing officer finds that the city had probable cause, the lien for cost of removal shall remain. If the hearing officer finds that probable cause did not exist, the lien shall be extinguished.

(e) The hearing officer shall prepare a written report within five (5) days of the hearing stating his/her/their conclusion concerning whether the vehicle was in violation of this article and the reasons and evidence upon which the conclusion has been based. The owner or any other person entitled to claim possession of the vehicle shall be notified of this decision by regular mail.

(f) Any aggrieved party may appeal the hearing officer's decision to board of adjustment by filing an appeal in writing within fifteen (15) calendar days after the date of the report of the hearing officer, but not thereafter.

(g) At any stage in the proceedings, including before the probable cause hearing, the owner or other person entitled to possession may obtain possession of the vehicle by:

- (1) Paying the towing fee and costs incident to such fee; or
- (2) Posting a bond for double the amount of the towing fee.