

CHAPTER 3
UNSAFE BUILDINGS AND STRUCTURES ORDINANCE
CHOWAN COUNTY, NORTH CAROLINA

3.01 Definitions

For the purposes of this Ordinance, certain terms and words used herein shall be interpreted as follows:

- A. Public Nuisance:** A *public nuisance* is one which affects an indefinite number of persons or all people coming within the extent of its range or operation, although the extent of the annoyance or damage inflicted upon individuals may be unequal. Maintaining a *public nuisance* is by act, or by failure to perform a legal duty, intentionally causing or permitting a condition to exist which injures or endangers the public health, safety or welfare.
- B. Reserved.**

3.02 Declaration by Building Inspector

- A.** Any building or structure or part thereof, partially destroyed or otherwise, which is found by the building inspector to be in such dilapidated state of disrepair or other substandard conditions as to be dangerous to life, health or other property, or to constitute a fire or safety hazard or public nuisance shall be declared by the building inspector to be unsafe.
- B.** Such unsafe condition may be caused by defective construction, overloaded structural parts, decay, susceptibility to fire, exits or any other hazardous conditions or circumstances.
- C.** The building inspector shall have authority, and it shall be his/her duty to declare all such buildings or structures unsafe and to take appropriate action to have such conditions corrected or removed.
- D.** Such declaration by the building inspector shall constitute an order of condemnation for the purposes of this ordinance.

3.03 Removal After Condemnation

- A. Duty of owner.** 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 county commissioners to be dangerous to life, health or other property, or is in such condition as to constitute a fire safety hazard or 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.

- B. Authority of county on failure of owner.** In the event such owner fails or refuses so to do within the time directed by the building inspector or by the county commissioners, as herein provided, the county commissioners may, in its judgment, cause the same to be demolished and removed or such other steps taken as it may find to be necessary to suppress and abate the nuisance and remove the fire and safety hazard and the danger to life, health, or other property found to exist, and specially assess the cost and expense of doing such work against the lot of land on which the building or structure is located.

3.04 Notice and Hearing

Before any building or structure may be ordered to be demolished and removed as provided in this ordinance, the building inspector shall notify the 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 his assistant 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 place at a time not less than ten (10) days after the date of such written notice, at which time and place 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 therefore is posted on the outside of the building or structure in question at least ten (10) days prior to the date fixed for the hearing and a notice of the hearing is published on time in a newspaper having general circulation in the county at least one week prior to the date fixed for such hearing. Such notice shall state the address or location of the building or structure and the time, place and purpose of the hearing.

3.05 Order 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/she 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 structure or taking such other steps as may be necessary to abate the nuisance and remove the hazards, within such period, not less than sixty (60) days, as the building inspector may prescribe.

3.06 Appeals – Finality of Order Not Appealed

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 of appeal from such orders to the county commissioners, 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 (10) days after such order is made, 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 a manner herein prescribed, the action of the building inspector shall be deemed final, subject only to such action as the county commissioners may take as herein elsewhere provided. Where an appeal has been properly taken and notice thereof given in accordance with the provisions of this section, it shall be the duty of the building inspector to report the same to the county clerk who shall cause the matter to be placed on the agenda for action by the county commissioners at its next ensuing regular meeting.

3.07 Report 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 such 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 county clerk who shall cause such report to be placed on the agenda of action by the county commissioners at its next ensuing regular meeting. The building inspector shall mail a copy of such report by certified or registered mail to the owner at his last known address, or have a copy of said report delivered to such owner. Such report shall specify the date of the meeting of the county commissioners for which the matter will be docketed for action.

3.08 Order By County Commissioners

In all cases referred to in this article which reach the county commissioners 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 his order or direction, the county commissioners shall hear the matter, and if it finds and determines 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, 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 steps 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 specifically 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 said lot or parcel of land, which

may be enforced by and action instituted in the name of the county in the nature of action to foreclose a mortgage as provided by Section 105-414 of the General Statutes of North Carolina in the case of ad valorem taxes and local improvements assessments.

3.09 When Posting Publication Of Notice Required

In case in which the building inspector has been unable to give the owner actual notice of hearing in the manner hereinabove provided, and has given such notice by posting and publishing the same as authorized in this ordinance, 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 hazards, and such case is referred to the county commissioners for action, the county commissioners shall, before taking action, cause to be posted on the outside of the building or structure in question at least ten (10) days prior to the date fixed for the hearing, and published one time in a newspaper having general circulation in the county at least one (1) week prior to the date fixed for such hearing, a written notice stating the address or location of the building or structure involved and the time, place and purpose of the hearing and such other information as the county commissioners may deem advisable.

3.10 Presumption of Public Danger

In all cases in which the county commissioners, under authority of this ordinance, 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 necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire 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.

3.11 Failure to Comply With Orders, Penalties, Continuing Violations

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 county commissioners made by virtue and in pursuance of this ordinance, and any person violating this ordinance shall, upon conviction, be punished as provided by Section 14-4 of the General Statutes of North Carolina for the violation of municipal ordinances, and every day such person shall willfully fail or refuse to comply with any final order or direction of the building inspector or county commissioners made by virtue and in pursuance of this article shall constitute a separate and distinct offence.

3.12 Adoption

This ordinance shall become effective upon its adoption. Adopted by the Board of Commissioners of Chowan County, North Carolina on this day, July 11, 2002.

Nancy B. Morgan, Clerk