

REPAIR, CLOSING, OR DEMOLITION OF ABANDONED STRUCTURES

§ 150.50 FINDING; INTENT.

It is found that there exist within the town abandoned structures which the Board finds to be hazardous to the health, safety, and welfare of the residents of the town due to the attraction of insects or rodents; conditions creating a fire hazard; dangerous conditions constituting a threat to children; or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. § 160A-441, it is the intent of this subchapter to provide for the repair, closing, or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing, or demolition of dwellings unfit for human habitation.

(`92 Code, § 90.50)

§ 150.51 DUTIES OF THE COUNTY BUILDING INSPECTOR.

The County Building Inspector is designated as the officer to enforce the provisions of this subchapter. It shall be the duty of the County Building Inspector:

(A) To locate abandoned structures within the town and determine which structures are in violation of this subchapter; and

(B) To take such action pursuant to this subchapter as may be necessary to provide for the repair, closing, or demolition of the structures.

(`92 Code, § 90.51)

§ 150.52 POWERS OF THE COUNTY BUILDING INSPECTOR.

The County Building Inspector is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this subchapter, including the following powers in addition to others herein granted:

(A) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this subchapter;

(B) To enter on premises for the purpose of making inspections;

(C) To administer oaths and affirmations, examine witnesses and receive evidence; and

(D) To designate such other officers, agents, and employees as he deems necessary to carry out the provisions of this subchapter.

(`92 Code, § 90.52)

§ 150.53 STANDARDS FOR ENFORCEMENT.

(A) Every abandoned structure within the town shall be deemed in violation of this subchapter whenever the structure constitutes a hazard to the health, safety, or welfare of the town citizens as a result of:

(1) The attraction of insects or rodents;

(2) Conditions creating a fire hazard;

(3) Dangerous conditions constituting a threat to children; or

(4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of this subchapter, the County Building Inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

(1) Holes or cracks in the structure's floors, walls, ceilings, or roof which might attract rodents and insects, or become breeding places for rodents and insects;

(2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;

(3) Violations of the state building code, the state electrical code, or the fire prevention code which constitute a fire hazard in the structure;

(4) The collection of garbage, rubbish, or combustible material which constitutes a fire hazard in the structure;

(5) The use of the structure or nearby grounds or facilities by children as a play area;

(6) Violations of the state building code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and

(7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking, or eating.
(`92 Code, § 90.53) Penalty, see § 10.99

§ 150.54 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the County Building Inspector by at least five residents of the town charging that any structure exists in violation of this subchapter or whenever it appears to the Inspector, on inspection, that any structure exists in violation hereof, the Building Inspector shall, if the preliminary investigation discloses a basis for such charges, issue and cause to be served on the owner of and parties whose interest is in the structure, a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the structure. Any person desiring to do so may attend the 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 hearings before the Inspector.

(B) *Procedure after hearing.* After the notice and hearing, the Inspector shall state in writing his determination as to whether the structure violates this subchapter. If the Inspector determines that the dwelling is in violation, the Inspector shall state in writing the findings of fact to support such determination, and shall issue and cause to be served on the owner thereof an order directing and requiring the owner to either repair, alter, and improve the structure or else remove or demolish the same within a specified period of time not to exceed 90 days.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any structure shall fail to comply with an order of the Inspector within the time specified therein, the Inspector may petition the superior court for an order directing the owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* After failure of an owner of a structure to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) above, the Inspector shall cause the structure to be removed or demolished, as provided in the original order of the Inspector, and pending the removal or demolition, to placard such dwelling as provided by G.S. § 160A-443.

(D) *Petition to superior court by owner.* Any person aggrieved by an order issued by the Inspector shall have the right, within 30 days after issuance of the order, to petition the superior court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

(`92 Code, § 90.54)

§ 150.55 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the County Building Inspector shall be served on persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of the complaint or order on such person may be made by publication once at least ten days prior to the hearing in a newspaper having general circulation in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(`92 Code, § 90.55)

§ 150.56 IN REM ACTION BY COUNTY BUILDING INSPECTOR; PLACARDING.

(A) After failure of an owner of a structure to comply with an order of the County Building Inspector issued pursuant to the provisions of this subchapter, the Inspector shall proceed to cause the structure to be removed or demolished, and shall cause to be posted on the main entrance of the structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each such order shall be recorded in the office of the County Register of Deeds and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

(`92 Code, § 90.56) Penalty, see § 10.99

§ 150.57 COSTS A LIEN ON PREMISES.

As provided by G.S. § 160A-443(6), the amount of the cost of any removal or demolition caused to be made or done by the County Building Inspector pursuant to this subchapter shall be a lien against the real property on which the cost was incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. §§ 160A-216 *et seq.*
(`92 Code, § 90.57)

§ 150.58 ALTERNATIVE REMEDIES.

Neither this subchapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this subchapter by criminal process, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.
(`92 Code, § 90.58)

Bryson City - Land Usage