

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**SENATE BILL 290
Commerce Committee Substitute Adopted 4/21/03**

Short Title: Greensboro Minimum Housing Codes.

(Local)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THAT THE CITY OF GREENSBORO MAY ORDER
2 OWNERS OF RESIDENTIAL PROPERTY TO REPAIR RATHER THAN
3 VACATE HOUSING TO MEET MINIMUM CODE STANDARDS.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 160A-443 reads as rewritten:

7 "**§ 160A-443. Ordinance authorized as to repair, closing, and demolition; order of**
8 **public officer.**

9 Upon the adoption of an ordinance finding that dwelling conditions of the character
10 described in G.S. 160A-441 exist within a city, the governing body of the city is hereby
11 authorized to adopt and enforce ordinances relating to dwellings within the city's
12 territorial jurisdiction that are unfit for human habitation. These ordinances shall include
13 the following provisions:

14 (1) That a public officer be designated or appointed to exercise the powers
15 prescribed by the ordinance.

16 (2) That whenever a petition is filed with the public officer by a public
17 authority or by at least five residents of the city charging that any
18 dwelling is unfit for human habitation or whenever it appears to the
19 public officer (on his own motion) that any dwelling is unfit for human
20 habitation, the public officer shall, if his preliminary investigation
21 discloses a basis for such charges, issue and cause to be served upon
22 the owner of and parties in interest in such dwellings a complaint
23 stating the charges in that respect and containing a notice that a
24 hearing will be held before the public officer (or his designated agent)
25 at a place within the county in which the property is located fixed not
26 less than 10 days nor more than 30 days after the serving of the
27 complaint; that the owner and parties in interest shall be given the right
28 to file an answer to the complaint and to appear in person, or
29 otherwise, and give testimony at the place and time fixed in the

1 complaint; and that the rules of evidence prevailing in courts of law or
2 equity shall not be controlling in hearings before the public officer.

3 (3) That if, after notice and hearing, the public officer determines that the
4 dwelling under consideration is unfit for human habitation, he shall
5 state in writing his findings of fact in support of that determination and
6 shall issue and cause to be served upon the owner thereof an order,

7 a. If the repair, alteration or improvement of the dwelling can be
8 made at a reasonable cost in relation to the value of the
9 dwelling (the ordinance of the city may fix a certain percentage
10 of this value as being reasonable), requiring the owner, within
11 the time specified, to repair, alter or improve the dwelling in
12 order to render it fit for human ~~habitation or to vacate and close~~
13 ~~the dwelling as a human habitation; or habitation.~~

14 b. If the repair, alteration or improvement of the dwelling cannot
15 be made at a reasonable cost in relation to the value of the
16 dwelling (the ordinance of the city may fix a certain percentage
17 of this value as being reasonable), requiring the owner, within
18 the time specified in the order, to remove or demolish such
19 dwelling. However, notwithstanding any other provision of law,
20 if the dwelling is located in a historic district of the city and the
21 Historic District Commission determines, after a public hearing
22 as provided by ordinance, that the dwelling is of particular
23 significance or value toward maintaining the character of the
24 district, and the dwelling has not been condemned as unsafe, the
25 order may require that the dwelling be vacated and closed
26 consistent with G.S. 160A-400.14(a).

27 (4) That, if the owner fails to comply with an order to repair, alter or
28 improve ~~or to vacate and close~~ the dwelling, the public officer may
29 cause the dwelling to be repaired, altered or ~~improved or to be vacated~~
30 ~~and closed; improved,~~ that the public officer may cause to be posted on
31 the main entrance of any dwelling so closed, a placard with the
32 following words: "This building is unfit for human habitation; the use
33 or occupation of this building for human habitation is prohibited and
34 unlawful." Occupation of a building so posted shall constitute a Class
35 1 misdemeanor.

36 (5) That, if the owner fails to comply with an order to remove or demolish
37 the dwelling, the public officer may cause such dwelling to be
38 removed or demolished. The duties of the public officer set forth in
39 subdivisions (4) and (5) shall not be exercised until the governing body
40 shall have by ordinance ordered the public officer to proceed to
41 effectuate the purpose of this Article with respect to the particular
42 property or properties which the public officer shall have found to be
43 unfit for human habitation and which property or properties shall be
44 described in the ordinance. No such ordinance shall be adopted to

1 require demolition of a dwelling until the owner has first been given a
2 reasonable opportunity to bring it into conformity with the housing
3 code. This ordinance shall be recorded in the office of the register of
4 deeds in the county wherein the property or properties are located and
5 shall be indexed in the name of the property owner in the grantor
6 index.

7 (5a) ~~If the governing body shall have adopted an ordinance, or the public
8 officer shall have:~~

9 a. ~~In a municipality located in counties which have a population in
10 excess of 71,000 by the last federal census (including the
11 entirety of any municipality located in more than one county at
12 least one county of which has a population in excess of 71,000),
13 other than municipalities with a population in excess of 190,000
14 by the last federal census, issued an order, ordering a dwelling
15 to be repaired or vacated and closed, as provided in subdivision
16 (3)a, and if the owner has vacated and closed such dwelling and
17 kept such dwelling vacated and closed for a period of one year
18 pursuant to the ordinance or order;~~

19 b. ~~In a municipality with a population in excess of 190,000 by the
20 last federal census, commenced proceedings under the
21 substandard housing regulations regarding a dwelling to be
22 repaired or vacated and closed, as provided in subdivision (3)a.,
23 and if the owner has vacated and closed such dwelling and kept
24 such dwelling vacated and closed for a period of one year
25 pursuant to the ordinance or after such proceedings have
26 commenced;~~

27 ~~then if the governing body shall find that the owner has abandoned the
28 intent and purpose to repair, alter or improve the dwelling in order to
29 render it fit for human habitation and that the continuation of the
30 dwelling in its vacated and closed status would be inimical to the
31 health, safety, morals and welfare of the municipality in that the
32 dwelling would continue to deteriorate, would create a fire and safety
33 hazard, would be a threat to children and vagrants, would attract
34 persons intent on criminal activities, would cause or contribute to
35 blight and the deterioration of property values in the area, and would
36 render unavailable property and a dwelling which might otherwise
37 have been made available to ease the persistent shortage of decent and
38 affordable housing in this State, then in such circumstances, the
39 governing body may, after the expiration of such one year period,
40 enact an ordinance and serve such ordinance on the owner, setting
41 forth the following:~~

42 a. ~~If it is determined that the repair of the dwelling to render it fit
43 for human habitation can be made at a cost not exceeding fifty
44 percent (50%) of the then current value of the dwelling, the~~

1 ordinance shall require that the owner either repair or demolish
2 and remove the dwelling within 90 days; or

- 3 b. If it is determined that the repair of the dwelling to render it fit
4 for human habitation cannot be made at a cost not exceeding
5 fifty percent (50%) of the then current value of the dwelling, the
6 ordinance shall require the owner to demolish and remove the
7 dwelling within 90 days.

8 This ordinance shall be recorded in the Office of the Register of
9 Deeds in the county wherein the property or properties are located and
10 shall be indexed in the name of the property owner in the grantor
11 index. If the owner fails to comply with this ordinance, the public
12 officer shall effectuate the purpose of the ordinance.

13 This subdivision only applies to municipalities located in counties
14 which have a population in excess of 71,000 by the last federal census
15 (including the entirety of any municipality located in more than one
16 county at least one county of which has a population in excess of
17 71,000).

18 {This subdivision does not apply to the local government units
19 listed in subdivision (5b) of this section.}

- 20 (5b) If the governing body shall have adopted an ordinance, or the public
21 officer shall have:

- 22 a. In a municipality other than municipalities with a population in
23 excess of 190,000 by the last federal census, issued an order,
24 ordering a dwelling to be repaired or vacated and closed, as
25 provided in subdivision (3)a, and if the owner has vacated and
26 closed such dwelling and kept such dwelling vacated and closed
27 for a period of one year pursuant to the ordinance or order;
28 b. In a municipality with a population in excess of 190,000 by the
29 last federal census, commenced proceedings under the
30 substandard housing regulations regarding a dwelling to be
31 repaired or vacated and closed, as provided in subdivision (3)a.,
32 and if the owner has vacated and closed such dwelling and kept
33 such dwelling vacated and closed for a period of one year
34 pursuant to the ordinance or after such proceedings have
35 commenced,

36 then if the governing body shall find that the owner has abandoned the
37 intent and purpose to repair, alter or improve the dwelling in order to
38 render it fit for human habitation and that the continuation of the
39 dwelling in its vacated and closed status would be inimical to the
40 health, safety, morals and welfare of the municipality in that the
41 dwelling would continue to deteriorate, would create a fire and safety
42 hazard, would be a threat to children and vagrants, would attract
43 persons intent on criminal activities, would cause or contribute to
44 blight and the deterioration of property values in the area, and would

1 render unavailable property and a dwelling which might otherwise
2 have been made available to ease the persistent shortage of decent and
3 affordable housing in this State, then in such circumstances, the
4 governing body may, after the expiration of such one year period,
5 enact an ordinance and serve such ordinance on the owner, setting
6 forth the following:

- 7 a. If it is determined that the repair of the dwelling to render it fit
8 for human habitation can be made at a cost not exceeding fifty
9 percent (50%) of the then current value of the dwelling, the
10 ordinance shall require that the owner either repair or demolish
11 and remove the dwelling within 90 days; or
12 b. If it is determined that the repair of the dwelling to render it fit
13 for human habitation cannot be made at a cost not exceeding
14 fifty percent (50%) of the then current value of the dwelling, the
15 ordinance shall require the owner to demolish and remove the
16 dwelling within 90 days.

17 This ordinance shall be recorded in the Office of the Register of Deeds
18 in the county wherein the property or properties are located and shall
19 be indexed in the name of the property owner in the grantor index. If
20 the owner fails to comply with this ordinance, the public officer shall
21 effectuate the purpose of the ordinance.

22 This subdivision applies to the Cities of Eden, Greenville,
23 Lumberton, Roanoke Rapids, and Whiteville, to the municipalities in
24 Lee County, and the Towns of Bethel, Farmville, Newport, and
25 Waynesville only.

26 (6) Liens. –

- 27 a. That the amount of the cost of repairs, alterations or
28 improvements, ~~or vacating and closing,~~ or removal or
29 demolition by the public officer shall be a lien against the real
30 property upon which the cost was incurred, which lien shall be
31 filed, have the same priority, and be collected as the lien for
32 special assessment provided in Article 10 of this Chapter.
33 b. If the real property upon which the cost was incurred is located
34 in an incorporated city, then the amount of the cost is also a lien
35 on any other real property of the owner located within the city
36 limits or within one mile thereof except for the owner's primary
37 residence. The additional lien provided in this sub-subdivision
38 is inferior to all prior liens and shall be collected as a money
39 judgment.
40 c. If the dwelling is removed or demolished by the public officer,
41 he shall sell the materials of the dwelling, and any personal
42 property, fixtures or appurtenances found in or attached to the
43 dwelling, and shall credit the proceeds of the sale against the
44 cost of the removal or demolition and any balance remaining

1 shall be deposited in the superior court by the public officer,
2 shall be secured in a manner directed by the court, and shall be
3 disbursed by the court to the persons found to be entitled thereto
4 by final order or decree of the court. Nothing in this section
5 shall be construed to impair or limit in any way the power of the
6 city to define and declare nuisances and to cause their removal
7 or abatement by summary proceedings, or otherwise.

8 (7) If any occupant fails to comply with an order to vacate a dwelling, the
9 public officer may file a civil action in the name of the city to remove
10 such occupant. The action to vacate the dwelling shall be in the nature
11 of summary ejectment and shall be commenced by filing a complaint
12 naming as parties-defendant any person occupying such dwelling. The
13 clerk of superior court shall issue a summons requiring the defendant
14 to appear before a magistrate at a certain time, date and place not to
15 exceed 10 days from the issuance of the summons to answer the
16 complaint. The summons and complaint shall be served as provided in
17 G.S. 42-29. The summons shall be returned according to its tenor, and
18 if on its return it appears to have been duly served, and if at the hearing
19 the public officer produces a certified copy of an ordinance adopted by
20 the governing body pursuant to subdivision (5) authorizing the officer
21 to proceed to vacate the occupied dwelling, the magistrate shall enter
22 judgment ordering that the premises be vacated and that all persons be
23 removed. The judgment ordering that the dwelling be vacated shall be
24 enforced in the same manner as the judgment for summary ejectment
25 entered under G.S. 42-30. An appeal from any judgment entered
26 hereunder by the magistrate may be taken as provided in G.S. 7A-228,
27 and the execution of such judgment may be stayed as provided in G.S.
28 7A-227. An action to remove an occupant of a dwelling who is a
29 tenant of the owner may not be in the nature of a summary ejectment
30 proceeding pursuant to this paragraph unless such occupant was served
31 with notice at least 30 days before the filing of the summary ejectment
32 proceeding that the governing body has ordered the public officer to
33 proceed to exercise his duties under ~~subdivisions (4) and subdivision~~
34 (5) of this section to ~~vacate and close or remove and demolish the~~
35 dwelling.

36 (8) That whenever a determination is made pursuant to subdivision (3) of
37 this section that a dwelling must be ~~vacated and closed, or removed or~~
38 demolished, under the provisions of this section, notice of the order
39 shall be given by first-class mail to any organization involved in
40 providing or restoring dwellings for affordable housing that has filed a
41 written request for such notices. A minimum period of 45 days from
42 the mailing of such notice shall be given before removal or demolition
43 by action of the public officer, to allow the opportunity for any
44 organization to negotiate with the owner to make repairs, lease, or

1 purchase the property for the purpose of providing affordable housing.
2 The public officer or clerk shall certify the mailing of the notices, and
3 the certification shall be conclusive in the absence of fraud. Only an
4 organization that has filed a written request for such notices may raise
5 the issue of failure to mail such notices, and the sole remedy shall be
6 an order requiring the public officer to wait 45 days before causing
7 removal or demolition."

8 **SECTION 2.** This act applies only to the City of Greensboro.

9 **SECTION 3.** This act is effective when it becomes law.