

**Town Council of the Town of Rutherfordton**

**Rutherford County, North Carolina**

**Ordinance No. 07-21**

AN ORDINANCE ESTABLISHING ARTICLE V OF CHAPTER 6 ("NON-RESIDENTIAL MAINTENANCE CODE") OF THE CODE OF ORDINANCES OF THE TOWN OF RUTHERFORDTON.

---

**BE IT ORDAINED** by the Town Council of the Town of Rutherfordton, following a public hearing hereon, that the Code of Ordinances be amended as follows:

**Part I.** Article V, "Non-Residential Maintenance Code", is established by adding a new Article to Chapter 6 of the Rutherfordton Code of Ordinances

**Article V Non-Residential Maintenance Code**

**6-85 Authority**

In order to protect the health, safety and welfare of the town and its residents and citizens including but not limited to owners and occupants of non-residential buildings or structures, it is the purpose of this division to establish minimum standards of maintenance, sanitation, and safety relating to non-residential buildings or structures, as expressly authorized by G.S. § 160D-1129.

**6-86 Intent**

The intent of this article is to establish minimum standards of maintenance, sanitation, and safety for all vacant and occupied non-residential building and structures within the corporate limits of the Town of Rutherfordton, in order to address conditions that are or may be injurious to public health, safety, and welfare. The provisions of this article shall apply to all existing and future buildings and structures in use for and/or intended for use for non-residential purposes.

**6-87 Jurisdiction**

1. The provisions of this code shall apply to all premises, structures, and buildings located within the corporate limits of the Town of Rutherfordton. Residential structures shall fall under enforcement of the minimum housing code for the town. For combination structures, both codes would apply. This code establishes minimum standards for the initial and continued occupancy and/or use of all such

buildings, and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building, equipment or facilities contained therein.

2. The provisions of this code apply whether the structure or building is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured by any party in interest to prevent the entry of unauthorized persons or the occurrences of conditions not permitted by law.

### **6-88 Purpose**

It is the purpose of the provisions of this code to provide a just, equitable and practical method, whereby all buildings, structures, and premises which from any cause, endanger the life, limb, health, property, safety, or welfare of the general public or their occupants, diminish property values or detract excessively from the appropriate appearance of the area, may be required to be repaired or demolished. It is further the purpose of this code to preserve the character and integrity of the community and to promote the comfort, happiness, and safety of community residents. It is the further purpose of this code to minimize discordant, unsightly, and/or offensive surroundings while preserving beauty as well as the usefulness of the environment. The provisions of this code are cumulative with and in addition to any other remedy provided by law including the current editions of standard codes adopted by the town and Rutherford County.

### **6-89 Minimum Standards for Non-Residential Buildings and Structures**

It shall be the responsibility of the owner of all buildings, structures, and/or premises in the corporate limits of the Town of Rutherfordton that they be maintained in compliance with all applicable provisions herein. The following violations shall be corrected subsequent to the notice of violations as enumerated herein:

- A. *Minor violations.* The following minor violations shall be abated within 15 consecutive days of the notice of violation:
  - a. A structure, wall, or other affixed real property visible from a public right-of-way shall not have graffiti for a period of more than 15 consecutive days.
  - b. Advertising sign structures, attached or freestanding, awnings, marquees and their supporting members and other similar attachments and structures shall be maintained in good repair and shall not cause a nuisance or safety hazard.
  - c. A structure shall not have weeds, trees, vines, or other uncultivated vegetation growing upon it greater than 12 inches in height in an untended manner.
  - d. Buildings and premises shall be kept clear of accumulations of garbage, trash, or rubbish which create health and sanitation problems. All garbage

and solid waste shall be in approved containers or stored in a safe and sanitary way.

- e. All washrooms and water closet compartment floors are surfaced with water-resistant materials, kept in a dry and sanitary condition, and are provided with a switch and wall plate located in a manner that does not create a danger of short circuiting.
- f. All landscaping is kept in good condition, does not obstruct pedestrian walkways, vehicle movement areas, or signs, and does not constitute a vehicle sight distance obstruction, a safety hazard, or a place of potentially dangerous concealment.

B. *Major violations.* The following major violations shall be abated within 60 consecutive days of the notice of violation:

- a. A structure shall not have exterior surfaces that do not form a weather-tight surface due to holes, excessive cracks or decayed surfaces for a period of more than 60 consecutive days.
- b. Interior walls or vertical studs that list, lean, or buckle to such an extent as to render the building unsafe.
- c. Damage by fire, wind, or other causes that renders the building safe.
- d. Inadequate or obstructed facilities for egress in case of a fire or panic.
- e. A structure shall not have a roof with leaks or improperly distributed loads which are overloaded, which endangers the integrity of the structure or the health, safety, or welfare of tenants or adjoining property owners for a period of more than 60 consecutive days.
- f. A structure shall not have windows with glass that is broken or missing and/or window frames with more than 50% of the surface area covered with disfigured, cracked, or peeling surface materials for a period of more than 60 consecutive days.
- g. Dilapidation, decay, unsanitary conditions, or disrepair that is dangerous to the health, safety, or general welfare of the occupants or other persons within the community.
- h. Lack of adequate ventilation, light, heating, or sanitary facilities to an extent that may endanger the health, safety, or welfare of the occupants or other persons in the community.
- i. Lack of proper electrical, heating, or plumbing facilities that create a health or safety hazard.

C. *Hazardous conditions.* Any combination of conditions which in the judgment of the Enforcement Officer renders any building or structure dangerous or injurious to the health, safety, or general welfare of occupants or members of the general public. Hazardous conditions shall be immediately abated, including, but not limited to:



- a. Any holes, excavation, breaks, projections, or obstructions within building(s) or other structure(s);
- b. Loose, overhanging, or leaning objects that constitute a danger of falling on persons on the premises or in the vicinity thereof;
- c. Cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, broken plastic or vinyl, other dangerous objects, and/or similar hazardous conditions;
- d. Attached or unattached structures to the principal structure that are found to be hazardous, in poor repair, or structurally deficient;
- e. Objects or elements on or protruding from building walls or roofs or the surrounding premises, such as empty electrical or other conduits, open pipes, unused sign brackets, which constitute potential safety hazards;

### **6-90 Vacant Property Maintenance**

1. *Intent and scope.* The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for the maintenance of structures, equipment, and exterior property. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this chapter. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure, and sanitary condition, as provided herein, so as not to cause a blighting problem or adversely affect the public health or safety.
2. *Maintenance requirements.* Properties subject to this section shall be kept in compliance with the following maintenance requirements.
  - a. *Storage of materials and containers.* No materials of any type, or storage containers, shall be kept or stored on the interior of any premises, unless the storage of such materials or containers otherwise complies with all applicable laws and regulations.
  - b. *Protective treatment.* All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences, shall be maintained in good condition. Masonry shall be repointed, as necessary, to prevent bricks or members from falling or coming out. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering, cladding or treatment. Peeling, flaking and chipped paint shall be eliminated, and surfaces repainted. All siding and masonry joints, as well as those between the building or structure envelope, and the perimeter of windows, doors, and skylights, shall be maintained weather-resistant and watertight. All metal surfaces subject to rust or corrosion shall be coated to inhibit rust and corrosion. All surfaces with rust or

corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

- c. *Premises' identification.* All primary buildings shall have approved address numbers placed in a position, and of such size, to be plainly legible with contrasting color and numbers measuring to four inches in height which will be visible from the street or road fronting the property. Address numbers shall be Arabic numbers or alphabet letters. The numbers used shall be made of durable and visible material, which contrasts with the background material upon which it is placed. This identification requirement shall ultimately reflect the NC Fire Code.
- d. *Structural members.* All structural members shall be maintained free from deterioration and shall be capable of safely supporting imposed dead and live loads.
- e. *Foundation walls.* All foundation walls shall be maintained plumb and free from open cracks and breaks, and shall be in such condition as to prevent the entry of rodents and other pests.
- f. *Exterior walls.* All exterior walls shall be free from holes, breaks and loose or rotting materials, and maintained weatherproof and properly surface-coated where required to prevent deterioration.
- g. *Roofs and drainage.* The roof and flashing shall be sound, tight and not have defects that admit rain. The roof shall not contain more than two roof coverings. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.
- h. *Decorative features.* All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair, with proper anchorage and in a safe condition.
- i. *Stairways, decks, porches, and balconies.* Every exterior stairway, deck, porch and balcony, including all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- j. *Chimneys, flues, vents.* There shall be no chimneys, or parts thereof, that are defective, deteriorated or in danger of falling or in such condition or location as to constitute a fire hazard. All chimneys, flues and vent attachments thereto shall be maintained structurally sound. Chimneys, flues, gas vents or other draft-producing equipment in use shall provide sufficient draft to develop the rated output of the connected equipment,

and shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases.

- k. *Handrails and guards.* All exterior porches, landings, balconies, stairs and fire escapes, and the like, shall be provided with banisters, railings or guards, which are properly designed, firmly fastened, capable of supporting normally imposed loads, and maintained in good condition to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair and free of defects.
- l. *Windows, skylights, and doors.* Every window, skylight, door, and frames thereof, shall be in sound condition, good repair and weather-tight. There shall be no cracks, holes or open spaces around window and door frames. All glazing materials shall be maintained free from cracks and holes. Windows and doors shall be maintained free from broken or missing glass. Broken or missing glass may not be replaced with material other than glass. Every window, other than a fixed window, shall be easily operable and capable of being held in position by window hardware. Voids within exterior walls created for the purpose of, or having once contained a window or door, shall not remain without a window or door. Exterior windows, exterior spaces missing or partially missing windows, exterior doors and exterior spaces missing or partially missing doors in buildings, whether vacant or occupied, shall not be covered with masonry or other similar material, and shall be filled with a window or door. Glazing shall not be painted in opaque paint, except for signage meeting the requirements of the zoning ordinance. Windows within the same building shall match in terms of material and general design.
- m. *Shutters.* As an alternative to a glass window, shutters can be allowed on the second floor of a two-story building/ structure, and on the third floor of a three-story building. Additionally, the shutters shall be of a durable material and of a style, material and color as to match the color, material, historical nature and architectural style of the building/ structure.
- n. *Doors.* All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units in a building/structure shall tightly secure the door.
- o. *Basements.* All crawlspace doors, basement doors and hatchways shall be maintained to prevent entry, and all entrances to dwellings units shall tightly secure the door.
- p. *Guards for basement windows.* Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of vermin.



- q. *Egress.* Every building shall be provided with adequate means of egress as required by the State Building Code and Fire Code. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Code.
- r. *Building security.* The property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (including but not limited to, walkthrough, sliding and garage doors), gates, pet doors and any other such opening of such size that it may allow a child to access the interior of the property or structure(s). Doors, windows or hatchways for buildings shall be provided with devices designed to provide security for the occupants and property within. Basement hatchways that provide access to buildings shall be equipped with devices that secure the unit from unauthorized entry.
- s. *Loose materials.* The building and environs surfaces shall be kept clear of: cracked or broken glass; loose shingles; loose wood; crumbling stone or brick; loose, broken, tattered or torn plastic; or other dangerous objects or similar hazardous conditions.
- t. *Exterior surface maintenance.* Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration.
- u. *Rubbish.* Buildings and environs shall be kept clear of accumulations of garbage, trash, or rubbish that create health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary way.
- v. *Overhanging and protruding objects.* The building and environs shall be kept free of loose and insufficiently anchored overhanging objects that constitute a danger of falling on persons or property. The building and environs shall be kept free of objects and elements protruding from building walls, roof and environs that are unsafe or not properly secured, or that can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets and similar objects.
- w. *Holes and breaks in walking surfaces.* The environs shall be kept free of insufficiently protected holes, excavations, breaks, projections, obstructions and other dangerous impediments on and around walks, driveways, parking lots and other areas accessible to and generally used by persons on the premises.
- x. *Gutters and downspouts.* Gutters and downspouts shall be replaced or repaired as necessary and shall be appropriately located so as not to cause a hazard to pedestrian, vehicular traffic or property.

- y. *Drainage.* All yards and environs shall be properly graded and maintained so as to obtain thorough drainage, and prevent the accumulation of stagnant water.
  - z. *Accessory structures and appurtenances.* Attached and unattached accessory structures and appurtenances shall not cause a nuisance or safety hazard.
  - aa. *Signs.* Advertising sign structures, attached or freestanding, awnings, marquees and their supporting members, and other similar attachments and structures shall not cause a nuisance or safety hazard.
3. *Registration.*
- A. Any vacant commercial property must be registered by the owner with the town's Planning and Zoning Department, either:
    - a. By the owner's own accord before receiving a notice of registration requirement; or
    - b. Within 30 days of the owner receiving a notice of registration requirement.
  - B. The town will send a notice of registration requirement to the owner of record of properties that are vacant. The owner shall register property within the time period set forth in division A of this section, unless the owner can provide clear and convincing evidence to the Town Manager, Code Enforcement Officer, or their designee, within such time period, that the property is not vacant.
  - C. The registration shall contain:
    - a. The name of the owner (corporation or individual);
    - b. The address of the vacant property;
    - c. The direct street/office mailing address of the owner and post office box, if applicable; and
    - d. A direct contact name and phone number.
  - D. Any changes in the information in division C of this section shall be reported to the Planning and Zoning Department within 30 days of such changes.
  - E. Registration must be renewed annually.
  - F. Vacant properties shall remain subject to the annual registration, maintenance, and security requirements of this article as long as they remain vacant.
  - G. Once the property is no longer vacant or is sold, the owner must provide written proof of occupancy or sale to the Town Manager, Code Enforcement Officer, or their designee.
  - H. Registration of a vacant commercial property does not excuse the owner from compliance with any other applicable ordinance, regulation or statute, without limitations, with regard to the owner's vacant property. By accepting an owner's registration, the Planning and Zoning Department has not determined



that the vacant property being registered is in compliance with an applicable, local or state regulation or law.

- I. Fees. Effective immediately following the adoption of this code, annual registration of \$50 shall be collected upon registration of the vacant property and collected annually on the renewal of the registration. Fees will not be prorated.

4. *Exemptions.*

- A. A vacant commercial property that is actively listed (including signage affixed to the property) and offered for sale or lease for a period of no more than one calendar year shall be exempt from the annual vacant commercial property registration fee, subject to the following condition:
  - a. The exemption can be extended for an additional year upon proof of good faith marketing of the property compliant with all applicable town ordinances.
- B. A vacant commercial building that is being renovated under an active building permit for the purpose of preparing it for occupancy shall be exempt from the annual vacant building registration fee, subject to the following conditions:
  - a. The property owner can demonstrate that the work being performed is pursuant to the acquired permit for the preparation of occupancy, lease or sale; and
  - b. Inspections for the work covered under the permit are requested on at least a monthly basis.
- C. A vacant commercial building that has been purchased within 90 days of receiving a notice of registration requirement. Properties meeting this exemption will be given 12 months to start rehabilitation or action to occupy the buildings. A work plan of action shall be submitted, along with the property registration form, outlining the work being planned and an estimated date of completion/ occupation.

### **6-91 Enforcement**

The Town's Code Enforcement Officer is hereby designated to exercise the powers prescribed in this chapter in accordance with the provisions of the public officer described in G.S. 160D-1129.

### **6-92 Applicability of Other Codes**

The North Carolina State Building Code, General Construction, Volume 1; Plumbing, Volume II; Heating, Air Conditioning, Refrigeration and Ventilation, Volume III; the National Electrical Code; the North Carolina State Rehabilitation Code; and the North Carolina State Fire Code, shall govern all repairs or alterations made to any existing

structure. Any identified violations under the state building code shall be certified by the County Building Inspector.

#### **6-93 Investigation of Conditions**

1. Whenever it appears to the Code Enforcement Officer that any non-residential building or structure has not been properly maintained so that the safety or health of its occupants, or members of the general public, are jeopardized for failure of the property to meet the minimum standards established by this chapter, the Code Enforcement Officer shall undertake a preliminary investigation.
2. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search 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 Code Enforcement Officer shall seek assistance from the Rutherford County Building Inspector when inspecting properties suspected of hazardous conditions.

#### **6-94 Complaint and Hearing**

If the preliminary investigation discloses evidence of a violation of the minimum standards set forth in § XX.04 and § XX.05, the Code Enforcement Officer shall issue and cause to be served upon the owner of and parties in interest, in the non-residential building or structure, a complaint. The complaint shall state the following:

1. The charges and a notice that a hearing will be held before the Code Enforcement Officer at a place within the town, scheduled within 30 days after the serving of the complaint;
2. That the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and
3. That the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Code Enforcement Officer.

#### **6-95 Order**

If, after notice and hearing, the Code Enforcement Officer determines that the non-residential 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 the governing body, the Code Enforcement Officer 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. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

1. *Limitations on orders.*
  - A. An order may require the owner to repair, alter, or improve the non-residential building or structure in order to bring it into compliance with the minimum standards established by the governing body or to vacate and close the non-residential building or structure for any use.
  - B. An order may require the owner to remove or demolish the non-residential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed 50% of its then current value.

Notwithstanding any other provision of law, if the non-residential 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 governing body determines, after a public hearing as provided by ordinance, that the non-residential building or structure is of individual significance or contributes to maintaining the character of the district, and the non-residential building or structure has not been condemned as unsafe, the order may require that the non-residential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing body.
  - C. An order 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 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.
2. *Action by governing body upon failure to comply with order.*
  - A. 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 governing body may adopt an ordinance ordering the Code Enforcement Officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Code Enforcement 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 Code Enforcement Officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The Code Enforcement Officer may cause to be posted on the main entrance of any non-residential 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.

- B. If the owner fails to comply with an order to remove or demolish the non-residential building or structure, the governing body may adopt an ordinance ordering the Code Enforcement Officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Code Enforcement 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 non-residential 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 Code Enforcement Officer may cause the building or structure to be removed or demolished.
- C. Action by governing body upon abandonment of intent to repair. If the governing body has adopted an ordinance or the Code Enforcement 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 years pursuant to the ordinance or order, the governing body may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the municipality in that it would continue to deteriorate, would create a 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 governing body may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:
  - a. If the cost to repair the non-residential building or structure to bring it into compliance with the minimum standards is less than or equal to 50% of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or
  - b. If the cost to repair the non-residential building or structure to bring it into compliance with the minimum standards exceeds 50% of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

- c. 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 years before the governing body may take action under this division. The ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Code Enforcement Officer shall effectuate the purpose of the ordinance.

#### **6-96 Service of Complaints and Orders**

Complaints or orders issued by the Code Enforcement Officer pursuant to an ordinance adopted under this section 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 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. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Code Enforcement Officer in the exercise of reasonable diligence, and the Code Enforcement 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 town at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

#### **6-97 Liens**

1. Upon the Code Enforcement Officer effectuating the order to repair, alter, improve, vacate, close, remove or demolish the non-residential property, the amount of the cost shall be a lien against the real property upon which the cost was incurred. This lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the North Carolina General Statutes.
2. The amount of the costs shall also be a lien on any other real property of the owner, except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

3. When a non-residential building or structure is removed or demolished by the Code Enforcement Officer, the 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. All proceeds of the sale shall be credited against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court. The proceeds 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. Nothing in this section shall be construed to impair or limit in any way the power of the Town Council to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

### **6-98 Civil Penalty**

Neither this Article nor any of its provisions shall be construed to impair or limit in any way the power of the Town of Rutherfordton to define and declare nuisances and to cause their abatement by summary action or otherwise, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinance or laws.

In addition to the remedies provided for herein, an act constituting a violation of the provisions of this Article, or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$50.00, which includes administrative fees. Each day any single violation continues shall be a separate violation. Unless expressly stated otherwise in an Article or appendix, a violation of this Article shall not constitute a misdemeanor pursuant to G.S. 14-4. If the offender fails to correct this violation by the prescribed deadline after being notified of said violation, the penalty may be recovered in a civil action in the nature of a debt. In the event a civil action is filed by the Town of Rutherfordton in the nature of a debt, for an injunction, order of abatement, enforcement of a lien right, or other equitable remedy, or any combination thereof, the Town of Rutherfordton also shall be entitled to recover its court costs and attorney fees.

### **6-99 Appeals**

Any appeals for an order or decision made by the Code Enforcement Officer may be taken to the Planning & Zoning Board. Any person aggrieved by a decision or order of the Code Enforcement Officer shall have the remedies provided in G.S. 160D-1208.

**Part II.** All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

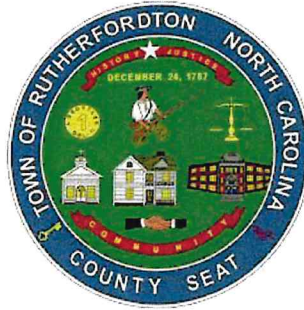
**Part III.** This Ordinance shall become effective upon its adoption.



ADOPTED this 6<sup>th</sup> day of January 2021 by the Town Council of the Town of Rutherfordton, North Carolina.

ATTEST:

  
Mara Short, Town Clerk



  
MAYOR Jimmy Dancy

APPROVED AS TO FORM:

  
Elizabeth T. Miller, Town Attorney

