

Planning & Inspections Department

308 East Stadium Drive * Eden, North Carolina 27288-3523 * (336) 623-2110 * Fax (336) 623-4057

MEMO

To: Honorable Mayor and City Council
Thru: Brad Corcoran, City Manager
From: Kelly K. Stultz, AICP, Director
Subject: **Human Habitation Standards Action/109 Short Morgan Street**
Date: March 9, 2012

Attached you will find a section of the Human Habitation Standards Ordinance relating to the steps to be taken when an owner fails to comply with an order to repair or demolish and a copy of the Complaint and Notice of Hearing Before Housing Inspector Under Housing Code which sets out the violations. The City of Eden Human Habitation Standards Ordinance and the enabling legislation permit the City Council, upon adoption of an Ordinance, to order the repair or demolition of the structure. An estimate for the demolition of the structure on this property is \$2,300.00. Once the demolition is done at the City's expense, actions can be taken to recoup the funds in the same manner as the collection of special assessments.

§ 4-90 FAILURE TO COMPLY WITH ORDER; OWNER.

(A) If the owner fails to comply with an order to repair, alter or improve the dwelling, the Director may:

(1) Cause such dwelling to be repaired, altered or improved, and pending such repairs, alterations or improvements, may order such dwelling vacated and closed.

(2) Cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor.

(B) If the owner fails to comply with an order to remove or demolish the dwelling, the Director may:

(1) Cause such dwelling to be vacated and closed, removed or demolished.

(2) Cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor.

(C) The duties of the Director set forth in subsections (A) and (B) shall not be exercised until the City Council, by ordinance, shall have ordered the Director to proceed to effectuate the purpose of this article with respect to the particular property or properties which the Director shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with this article. Such ordinances shall be recorded in the office of the Register of Deeds of Rockingham County and shall be indexed in the name of the property owner in the grantor index.

(D) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Director 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 by G.S. Chapter 160A, Article 10. If the dwelling is removed or demolished by the Director, he shall sell the materials of such dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court of Rockingham County by the Director, 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. (Ord. passed 5-15-95)

COMPLAINT AND NOTICE OF HEARING BEFORE
HOUSING INSPECTOR UNDER HOUSING CODE

TO: Owners and parties in interest in the property located at 109 Short Morgan Street
_____ of the City of Eden, North Carolina.

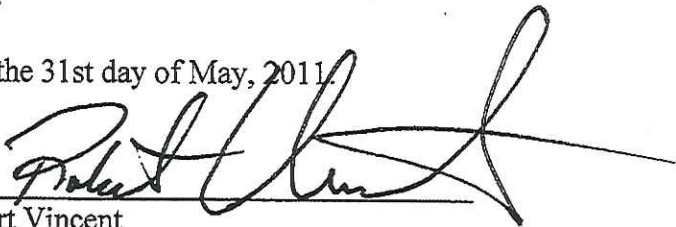
YOU ARE HEREBY NOTIFIED that the dwelling unit and/or lot located at the address designated above is in a condition that appears to be unfit for human habitation and to violate the City of Eden Minimum Housing Code as set out in the **ATTACHMENT** which is incorporated herein.

YOU ARE FURTHER NOTIFIED that a hearing will be held before the Housing Inspector of the City of Eden at 308 East Stadium Dr. at **8:30 A.M., June 22, 2011**, for the purpose of finding the facts as to whether or not the condition of such property falls within the scope of the above mentioned sections of the Housing Code. At the hearing, you shall be entitled to offer such evidence as is relevant to material to the questions sought to be determined or the remedies to be effected.

YOU ARE FURTHER NOTIFIED that if, upon such hearing, the Housing Inspector shall find that the conditions of the above described property do in fact violate the Housing Code, and do in fact render such dwelling unit unfit for human habitation, the Housing Inspector will issue an order in writing directed to the owner of such property requiring the owner to remedy these conditions. The Housing Inspector may make such other orders and take such other procedures as are authorized under the Housing Code and the General Statutes of North Carolina.

Further information as to this matter may be obtained by contacting the undersigned at (336) 623-2110.

This the 31st day of May, 2011.



Robert Vincent
Codes Inspector

Prepared by and Return to:
Erin B. Gilley

AN ORDINANCE AND ORDER
FOR THE DEMOLITION OF
PROPERTY AT 109 SHORT MORGAN STREET,
EDEN, NORTH CAROLINA

THIS ORDINANCE is issued pursuant to the provisions of North Carolina General Statutes §160A-443 and Chapter 4, Article IV of the Eden City Code.

WHEREAS, on the 27th day of May, 2011, the Director of the Planning and Inspections Department examined the dwelling owned by Christopher Fuller and wife, Erin Fuller, located at 109 Short Morgan Street, Eden, North Carolina and found it to be unfit for human habitation, that said property is more particularly described as follows:

BEGINNING at an iron in the west side of Morgan Road, said iron being South 6 deg. 50 min. West 125 feet, South 17 deg. 34 min. West 100 feet and South 32 deg. 35 min. West 158.3 feet from an iron, the intersection of Leaksville Cotton Mills tract (Deeded February 1, 1893) and the west side of Morgan Road, as shown by map of Brick Hill, made by W. B. Trogdon, C.E. in August 1928, revised September 8, 1928, and October 25, 1929, and running thence South 32 deg. 35 min. West 60 feet to an iron; thence North 57 deg. 25 min. West 150 feet to an iron; thence North 33 deg. 45 min. East 60.01 feet to an iron; thence South 57 deg. 25 min. East 148.78 feet to the PLACE OF BEGINNING and containing 8,963 square feet more or less and being a part of tract of land deeded to Marshall Field & Company by Spray Water Power & Land Company, July 10, 1928, and recorded July 27, 1928 in the Office of the Register of Deeds of Rockingham County, North Carolina, in Book 250, page 104. For further reference see Deed recorded in Book 730, page 218 in the Office of the Register of Deeds of Rockingham County.

The above described property being more commonly known as 109 Short Morgan Street, Eden, North Carolina, and being further identified by the Rockingham County Tax Dept. as PIN 7070-15-64-3197-00.

WHEREAS, on the 31st day of May, 2011, the Director caused to be issued a Complaint and Notice of Hearing for the 22nd day of June, 2011, which was mailed to the property owners by first class mail and by certified mail, return receipt requested, the certified mail was returned by the U. S. Postal Service stamped "Return to Sender – Unclaimed", the first class mail was not returned to the sender; and

WHEREAS, a copy of the Complaint and Notice of Hearing was posted on the subject property on the 1st day of June, 2011; and

WHEREAS, the Director caused a Notice of Lis Pendens to be filed in the Office of the Clerk of Superior Court for Rockingham County, North Carolina, on the 15th day of July, 2011; and

WHEREAS, the hearing was held on the 22nd day of June, 2011, and subsequent thereto on the 28th day of June, 2011, the Director issued an Order to repair, alter, improve or vacate and demolish the property; and

WHEREAS, a copy of the Order was served upon the property owners by certified mail on the 30th day of June, 2011, and by posting a copy on the subject property on the 1st day of July, 2011; and

WHEREAS, the property owners did not appeal the Order and, pursuant to Chapter 4, Section 4-89(b) of the Eden City Code, a copy of the order has been mailed to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notice; and

WHEREAS, the Owners have had a reasonable opportunity to bring the property into conformity with Chapter 4, Article IV of the Eden City Code and they have failed to take any action to comply with the Director's Order.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Eden that the Director is hereby ordered to proceed to effectuate the purpose of the Human Habitation Standards set out in Article IV of Chapter 4 of the Eden City Code with respect to the property described above by demolishing the structure located thereon.

IT IS FURTHER ORDERED that a certified copy of this Ordinance and Order shall be recorded in the Office of the Register of Deeds of Rockingham County, North Carolina, and indexed in the name of Christopher Fuller and wife, Erin Fuller in the Grantor index.

IT IS FURTHER ORDERED that the amount of the cost of demolishing the dwelling by the Director shall be a lien against the real property upon which the cost was incurred, said lien shall be filed, have the same priority, and be collected as the lien for special assessment provided by North Carolina General Statutes Chapter 160A, Article 10.

APPROVED, ADOPTED AND EFFECTIVE, this 20th day of March, 2012.

CITY OF EDEN

BY: _____
John E. Grogan, Mayor

ATTEST:

Sheralene Thompson, City Clerk

STATE OF NORTH CAROLINA

ROCKINGHAM COUNTY

I, Sheralene Thompson, Assistant Clerk of the City of Eden, North Carolina, do hereby certify that the foregoing instrument is a true, correct and complete copy of An Ordinance and Order For The Demolition Of Property at 109 Short Morgan Street, Eden, North Carolina that was duly adopted by the City Council of the City of Eden, at a regular meeting of said City Council duly convened and held on the 20th day of March, 2012, as appears upon the minutes of said meeting.

WITNESS my hand and the corporate seal of the said City of Eden, North Carolina, this the _____ day of _____ March _____, 2012.

Sheralene Thompson
Clerk of the City of Eden, North Carolina