



# Planning and Inspections Department

---

P. O. Box 70, 308 E Stadium Drive, Eden NC 27289-0070/Telephone 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/209 Moir Street**  
**Date:** May 8, 2015

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 \$7,000.00. 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.

The first action on this house was initiated on June 24, 2009. The property owner secured the house and the action was abated. On February 21, 2014, the case was reopened due to the further deterioration of the house.

**§ 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 209 Moir Street including the accessory structure of the City of Eden, North Carolina.

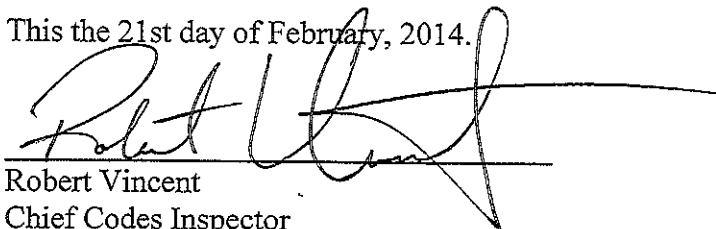
**YOU ARE HEREBY NOTIFIED** that the dwelling unit and/or lot located at the address designated above is in a condition that appears to be unfit for human habitation and to violate the City of Eden Minimum Housing Code as set out in the **ATTACHMENT** which is incorporated herein.

**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., March 21, 2014**, 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 21st day of February, 2014.

  
Robert Vincent  
Chief Codes Inspector

LOCATION: 209 Moir St.

File No. 09000458  
14000118

EXHIBIT "A"

A dwelling is unfit for human habitation if any one (1) of the following conditions exists:

DWELLING UNFIT FOR HUMAN HABITATION (Section 4-75)

- (1) Seriously listing, leaning or buckling interior walls or vertical studs
- (2) Deteriorating supporting members (33%), outside walls or covering (50%)
- (3) Insufficient floors or roofs 2-19-2014
- (4) Wind or fire damage
- (5) Dilapidation, decay, unsanitary conditions or disrepair
- (6) Inadequate egress in case of fire or panic
- (7) Defects increasing fire, accident hazards
- (8) Lack of adequate ventilation, light, heating or sanitary facilities
- (9) Lack of proper electrical, heating or plumbing facilities
- (10) Lack of connection to potable water supply or public or other approved sewage disposal system

A dwelling is unfit for human habitation if it fails to fully comply with seven (7) or more of the following standards of dwelling fitness:

STRUCTURAL STANDARDS (Section 4-76)

- (a) Listing, leaning, buckling, rotting, deteriorated or damaged walls, partitions, supporting members, sills, joists, rafters
- (b) Inadequate floors or roofs
- (c) Deteriorated foundations, foundation walls, piers
- (d) Improperly maintained steps, stairs, landings, porches
- (e) Inadequate egress in case of fire or panic
- (f) Unsuitable materials or inadequately maintained floors, interior walls or ceilings
- (g) Inadequate provisions for weather and water tightness
- (h) Defective, deteriorated or fire hazardous chimney
- (i) Use of ground for floors or wood floors on ground

PLUMBING STANDARDS (Section 4-77a)

- (1) Lack of connection through an approved pipe distribution system to a potable water supply
- (2) Lack of sink, lavatory, tub or shower, and water closet in good working order
- (3) Lack of sink, lavatory, tub or shower, and water closet with both hot and cold water
- (4) Plumbing fixtures not in good working order
- (5) Inaccessible fixtures/inadequate privacy
- (6) Plumbing not installed and/or repaired in accordance with the state plumbing code

**HEATING STANDARDS (Section 4-77b)**

- \_\_\_ (1) Heating system, appliances and facilities not installed in accordance with state building code and/or not maintained in a safe, good working condition

**ELECTRICAL STANDARDS (Section 4-77c)**

- \_\_\_ (1) Insufficient electric lights and receptacles  
\_\_\_ (2) Inadequately lighted halls, stairways (multiple dwellings)  
\_\_\_ (3) Electrical facilities not in good working order  
\_\_\_ (4) Insufficient capacity of service supply and/or insufficient main disconnect switch

**FIRE PROTECTION SYSTEM (Section 4-77d)**

- \_\_\_ (1) Fails to comply with all applicable provisions of the state fire prevention code  
\_\_\_ (2) Lack of approved listed smoke detector

**KITCHEN FACILITIES (Section 4-77e)**

- \_\_\_ (1) Lack of food preparation surfaces impervious to water and free of food/liquid trapping defects  
\_\_\_ (2) Shelves, cabinets and drawers in good repair  
\_\_\_ (3) Lack of freestanding or permanently installed cook stove  
\_\_\_ (4) Lack of mechanical refrigeration equipment

**SAFE AND SANITARY MAINTENANCE STANDARDS (Section 4-80)**

- \_\_\_ (a) Foundation walls, exterior walls or roofs in disrepair, not weather tight, watertight, or rodent proof  
\_\_\_ (b) Floors, interior walls or ceilings of unsuitable materials which promote sanitation, cleanliness, and privacy  
\_\_\_ (c) Windows, exterior doors in disrepair, not weather tight, watertight or rodent proof  
 (d) Unsound inside or outside stairs, porches or appurtenances  
\_\_\_ (e) Inadequate bathroom or kitchen floor surface  
\_\_\_ (f) Improperly maintained supplied facilities, equipment or utility  
\_\_\_ (g) Inadequate means of egress provided or means of ingress/egress obstructed

**INSECT, RODENT AND INFESTATION CONTROL STANDARDS (Section 4-81)**

- \_\_\_ (a) Missing exterior door opening screens or self closing devices (except mechanically ventilated or air conditioned.)  
\_\_\_ (b) Missing window or other opening screens (except operable central heating and adequate cooling equipment for mechanically ventilating)  
\_\_\_ (c) Improperly installed or maintained screens on windows and doors.  
\_\_\_ (d) Missing basement or cellar window or other opening screens to prevent rodent entry  
\_\_\_ (e) Inadequately maintained dwelling - to be free of infestation of insects, rodents, or other pests.  
\_\_\_ (f) Inadequate provision of approved containers and covers for storage and removal of rubbish.

Prepared by and Return to:  
Erin B. Gilley

AN ORDINANCE AND ORDER  
FOR THE DEMOLITION OF  
PROPERTY AT 209 MOIR 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 24th day of June, 2009, the Director of the Planning and Inspections Department examined the dwelling and accessory structure owned by Samuel O. Ostwalt at 209 Moir Street, Eden, North Carolina and found it to be unfit for human habitation, that said property is more particularly described as follows:

TRACT 1: BEGINNING at a stake, the same being in the line between Lots 10 and 11 in Section 12, as per map of Leaksville House and Power Company, made by W. B. Trogdon, March 1, 1901; South 38 deg. 30 min. East 166 feet from Oak Avenue in said line; thence continuing South 36 deg. 30 min. East and parallel with Moir Street 40 feet to a stake in the line of Lot 8; thence South 57 deg. 15 min. West with the line of Lot 8, 82.5 feet to a stake, corner of Lot 9; thence North 36 deg. 30 min. West 40 feet to a stake; thence North 57 deg. 15 min. East 82.5 feet to the PLACE OF BEGINNING, same being the back portion of Lot 10 in Section 13 as per the above mentioned map. See Deed from J. J. Shumate and wife, Bertha Shumate to John A. Glasgow, recorded in Book 181, page 222, in the office of the Register of Deeds for Rockingham County. See also Deed Book 299, page 10.

TRACT 2: BEGINNING at a stake on the West side of Moir Street, the same being South 36 deg. 30 min. East 175.5 feet from the intersection of Oak Avenue and Moir Street, the same being also corner of Lot No. 11, Section 13, as per map of Leaksville House and Power Company, made by W. B. Trogdon, March 1, 1901; thence South 57 deg. 15 min. West 165 feet to a stake, corner of Lot No. 9; thence South 36 deg. 30 min. feet to a stake, new corner; thence North 57 deg. 15 min. East 165 feet to a stake on Moir Street; thence with Moir Street, North 36 deg. 30 min. East 50

feet to the PLACE OF BEGNNING, the same being a strip of land 50 feet wide, lying on the north side of Lot No. 8, as above described, and adjoining the property of C. P. Robertson and Jno. A. Glasgow. See Deed Book 197, page 419. For further reference see Book No. 535, page 489 in the Office of the Register of Deeds of Rockingham County, N.C.

The above described property being more commonly known as 209 Moir Street, Eden, North Carolina, and being further identified by the Rockingham County Tax Dept. as PIN 7070-18-32-4061-00.

WHEREAS, on the 24th day of June, 2009, the Director caused to be issued a Complaint and Notice of Hearing for the 15th day of July, 2009, which was served on the property owner by the Sheriff of Rockingham County, N.C. on the 2nd day of July, 2009, by first class mail and by posting on the subject property on the 24th day of June, 2009; 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 6th day of July, 2009; and

WHEREAS, the Owner vacated and secured the house and the action was put on hold; and

WHEREAS, the Owner did not complete the repairs and the condition of the house and accessory structure deteriorated and a new action was filed;

WHEREAS, on the 21st day of February, 2014, the Director caused to be issued a new Complaint and Notice of Hearing for the 21st day of March, 2014, which was served on the property owner by first class mail and by posting on the subject property on the 21st day of February, 2014; and

WHEREAS, the hearing was held on the 21st day of March, 2014, and the Director issued an Order to repair, alter, improve or vacate and demolish the property; and

WHEREAS, a copy of the Order was served on the property owner by the Sheriff of Iredell County on the 25th day of April, 2014, and a copy of the Order was posted on the subject property on the 24th day of March, 2014; and

WHEREAS, the property owner 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 Owner has had a reasonable opportunity to bring the property into conformity with Chapter 4, Article IV of the Eden City Code and he has 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 structures 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 Samuel O. Ostwalt in the Grantor and Grantee 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 19th day of May, 2015.

CITY OF EDEN

BY: \_\_\_\_\_

Wayne R. Tuggle, Sr. Mayor

ATTEST:

\_\_\_\_\_  
Sheralene Thompson, CMC  
City Clerk