

**ORDINANCE OF THE TOWN OF FREMONT ESTABLISHING A
NON-RESIDENTIAL BUILDING MAINTENANCE CODE**

WHEREAS, the Town of Fremont has a historic downtown that serves as the primary commercial center in the Town;

WHEREAS, the Town has found that many of the nonresidential buildings in the Town are vacant or have been abandoned, and as a result of this neglect, these buildings have become susceptible to conditions that are detrimental to the health, safety, or welfare of its citizens;

WHEREAS, the intent of this ordinance is to establish a standard that promotes continued growth and investment in the Town’s commercial district and local economy; and

WHEREAS, pursuant to the authority granted by G.S. 160A-174 and G.S. 160D-1129, the Town of Fremont desires to adopt regulations relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety.

NOW THEREFORE, BE IT ORDAINED, by the Board of Aldermen of the Town of Fremont that this Ordinance be adopted as written in Section 1 below and codified in Chapter 155 of the Town Code of Ordinances:

Section 1:

Chapter 155 NON-RESIDENTIAL BUILDING MAINTENANCE CODE

§ 155.01 Finding.

The Town finds that there are or may exist nonresidential buildings or structures that are injurious to public health, safety, and welfare as a result of their failure to meet the standards of maintenance, sanitation, and/or safety set forth herein.

§ 155.02 Intent.

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

§ 155.03. Definitions.

The following definitions shall apply to terms as used in this chapter:

- A. “Parties in interest” means all individuals, associations, and/or corporations who have interests of record in a non-residential building or structure and any who are in possession of such building or structure.
- B. “Premises” means a lot, parcel, or tract of land, including the buildings and structures thereon, under control by the same owner or operator, devoted to or zoned for non-residential use.

- C. “Structure” means anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including, but not limited to: principal and accessory buildings, manufactured homes or offices, trailer units, signs, poles, fences, walls, bridges, monuments, flagpoles, antennas, transmission poles, towers and cables, above and below ground storage tanks, or other manmade facilities or infrastructures.
- D. “Vacant industrial warehouse” means any building or structure that was previously used for the storage of goods or equipment in connection with manufacturing processes, that has not been used for that purpose for at least one year, and that has not been converted to another use.
- E. “Vacant manufacturing facility” means any building or structure that was previously used for the lawful production or manufacturing of goods, that has not been used for that purpose for at least one year, and that has not been converted to another use.

§ 155.04 Conflicts.

In the event that any provision, standard, or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision that establishes the higher standard or more stringent requirement for the promotion and protection of public health, safety, and/or welfare shall prevail.

§ 155.05 Standards and Responsibilities.

The parties in interest of non-residential buildings and structures shall have responsibility for and shall ensure that such buildings and structures under their ownership or control are maintained in compliance with the following minimum standards of maintenance, sanitation, and safety:

- A. The premises shall be kept free of all nuisances and any hazards to the safety of occupants, customers, and other persons utilizing the premises and to pedestrians and/or vehicles passing thereby, including but not limited to, the following conditions in or about such building or structure:
 - 1. Interior walls or vertical studs that lean or buckle to such an extent as to render the building unsafe.
 - 2. Supporting member(s) that show 20% or more damage or deterioration or non-supporting enclosing or outside walls or coverings that show 25% or more damage or deterioration.
 - 3. Floors or roofs that have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
 - 4. Damage by fire, wind, or other causes that renders the building unsafe.
 - 5. 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.
 - 6. Inadequate or obstructed facilities for egress in case of fire or panic.
 - 7. Defects that significantly increase the hazards of fire, accident, or other calamities.

8. 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.
 9. Lack of proper electrical, heating, or plumbing facilities that create a health or safety hazard.
 10. Violations of the Fire Code or other conditions that constitute a fire hazard in the building or on the premises, such as (by way of example and not limitation) the accumulation of garbage, rubbish, hazardous liquids, or other combustible material.
 11. Garbage, trash or rubbish in or near the building, structure or premises that is likely to attract or become a breeding place for rodents, insects or other vermin.
- B. The premises are free of loose and overhanging or leaning objects that constitute a danger of falling on persons on the premises or in the vicinity thereof.
 - C. The premises are free of holes, excavation, breaks, projections, or obstructions within buildings or other structures and on walks, driveways, parking lots, parking areas, and other parts of the premises that are accessible to and used by persons on the premises.
 - D. The exterior of the building, structure, and/or premises is in good repair and free from deterioration, so as not to constitute a nuisance.
 - E. All surfaces are maintained free of cracked or broken glass, loose shingles, loose wood, rotting wood, crumbling stone or brick, loose or broken plastic or vinyl, other dangerous objects or similar hazardous conditions.
 - F. All floors, interior walls, and ceilings of every building or structure are structurally sound and are maintained in a good condition compatible with the intended use and in a manner that does not constitute a hazard to the public.
 - G. There are no structures attached or unattached to the principal structure that are found to be hazardous, in poor repair, or structurally deficient.
 - H. There are no 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.
 - I. All foundation walls are kept structurally sound and capable of bearing loads safely.
 - J. Building walls that have become exposed as a result of the demolition of adjacent buildings (a) have all doors, windows, vents, or similar openings secured with material of the same type comprising the wall, (b) have no protrusions or loose material that constitute a hazard, (c) are painted, stuccoed, or bricked so as not to detract from the adjacent property, and (d) are weatherproofed to prevent deterioration of the wall.
 - K. All windows are tight fitting, have sashes of proper size and design, do not have rotten wood, broken joints, or broken or loose mullions, and do not have broken or missing glazing.
 - L. All windows are maintained free of broken glass, in a manner that insures that at least 80% of the total surface of the glass is free of cracking.
 - M. All openings originally designed as windows are maintained as windows, complete with sills, lintels, frame, and glass, unless the fire marshal approves enclosure of the window in a manner that appropriately fills the space and is weatherproof.

- N. All exterior surfaces that require painting or dealing to protect the underlying surface from deterioration are kept properly painted or sealed.
- O. All exterior surfaces that have been painted are maintained free of peeling and flaking paint or stucco and entire walls are scraped and repainted or recovered if 30% or more of the aggregate area of any painted or stuccoed wall has peeling or flaking paint or stucco that is worn away. When exterior paint is applied, the entire surface shall be painted, not leaving an incomplete or unfinished appearance.
- P. All doors or other pedestrian or service openings are maintained in good repair, capable of being safely secured, all door frames have appropriately designed and installed doors, and no openings are left open or unsecured after hours in a manner that may constitute an attractive nuisance to persons (adults or children), animals, or vermin.
- Q. All advertising structures and their supporting members are maintained in good condition and do not constitute a nuisance or safety hazard. All signs, active or inactive, and their supporting members are kept in sound repair and have their exterior surfaces maintained in a properly painted or sealed condition to avoid peeling, flaking or rust (or if not, they shall be removed). All sign surfaces are maintained in legible condition, free of cracks, rips, holes, or other deterioration that diminishes their function or creates unsightly conditions.
- R. All light poles or other vertical poles or frames and their supporting members are maintained in sound condition, do not constitute a nuisance or safety hazard, and have their exterior surfaces maintained in a properly painted or sealed condition to avoid peeling, flaking or rust.
- S. 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.
- T. Flammable or combustible liquids or substances are kept in a container and in a location that is in compliance with the codes of the National Fire Protection Association.
- U. Chimneys, flues, and vent attachments are maintained in a structurally sound manner, are durable, are smoke-tight, are capable of withstanding the action of flue gases, and provide sufficient draft.
- V. Exterior porches, landings, balconies, stairs, ramps and fire escapes are provided with properly designed, structurally sound, defect-free and properly maintained banisters or railings. Interior stairs and landings are properly maintained and structurally sound.
- W. Gutters and downspouts are securely installed and appropriately located in a manner that does not create hazards to pedestrians or vehicular traffic.
- X. Parking lots and all curbing, surfacing, sidewalks, and other appurtenances are maintained free of broken or cracked surfaces, holes, or other hazardous conditions; repairs are made with appropriate materials of similar type. Curb cuts that are abandoned due to new construction, changes in access, or other causes are closed and replaced with curb and gutter compatible with adjoining curb areas and sidewalks are installed in accordance with municipal design standards.

- Y. 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.

§ 155.06 Occupancy.

The provisions of this chapter apply to non-residential buildings and structures whether they are occupied or vacant. All unoccupied or vacant buildings and structures shall be secured by any party in interest to prevent entry by unauthorized persons and to prevent occurrences of activities not permitted by law.

§ 155.07 Administration.

The town administrator or his/her designee shall serve as the enforcement officer(s) for the administration of these requirements and standards. The enforcement officer is authorized to exercise any powers necessary or convenient to carry out and implement the purpose and provisions of this chapter, including the following powers:

- A. To investigate non-residential buildings and structures in the town to determine whether they have been properly maintained in compliance with the minimum standards, so that the safety or health of the occupants and/or members of the general public are not jeopardized;
- B. To administer oaths and affirmations, examine witnesses, and receive evidence;
- C. To enter upon premises with the permission of the owner or other authorized person, or pursuant to an administrative search warrant, for the purpose of making examinations in a manner that will be the least possible inconvenience to the persons in possession;
- D. To delegate and assign to subordinates or agents those duties and responsibilities necessary to carry out the purposes of ordinances adopted by the Board of Alderman.

§ 155.08 Investigation.

Whenever it appears to the enforcement officer that a non-residential building or structure has not been maintained in accordance with the standards of this chapter, or when the enforcement officer receives a complaint of same, the officer shall undertake a preliminary investigation. If entry upon the premises is necessary, the officer may obtain the permission of the owner or other authorized person or may obtain an administrative search warrant in accordance with G.S.15-27.2.

§ 155.09 Notices; Administrative Hearings.

If the preliminary investigation discloses evidence of a violation of the required standards, the enforcement officer shall issue and cause to be served a complaint to the owner of and any known parties in interest in the building or structure, setting forth the charges of violations and containing notice that an administrative hearing will be held before the enforcement officer (or his or her agent) at a specified location in the county which hearing shall occur not less than 10 days nor more than 30 days following the serving of the complaint. The owner and/or parties of interest shall be given the opportunity to appear in person or otherwise at the time and place of the hearing and to give testimony regarding the matters in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in such administrative hearing.

§ 155.10 Administrative Orders.

If, following the investigation, notice, and hearing, the enforcement officer determines that the non-residential building or structure has not been maintained in accordance with the minimum standards of maintenance, sanitation, and safety set forth in this chapter, the enforcement officer shall make written findings of fact in support of the determination and shall issue and cause to be served on the owner of the property an order requiring the owner to take remedial action within a reasonable time period which shall be specified by the enforcement officer using his/her care and discretion in consideration of the nature of the violation and the threat to public health or safety. In no case shall the time period for remedial action be less than 15 days.

§ 155.11 Limitations on Orders.

Orders to take remedial action are subject to the following limitations.

- A. Orders may require the owner to repair, alter, or improve the building or structure in order to bring it into compliance with the minimum standards of this chapter or to vacate and close the building or structure for any use.
- B. Orders may require the owner to remove or demolish the building or structure if the cost of repair, alteration, or improvement would exceed 50% of its then current value. If the building or structure is designated as a local historic landmark, is listed in the National Register of Historic Places, or located in a designated historic district and the Board of Alderman determines, after a public hearing, that the building or structure is of individual significance or contributes to the character of the district, and the building or structure has not been condemned as unsafe, the order may require that the building or structure be vacated and closed until it is brought into compliance with the minimum standards.
- C. Orders 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 the 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 that the building or structure be closed for any use.

§ 155.12 Failure to Comply with Order.

If the owner fails to comply with the order of the enforcement officer, the following procedures shall apply.

- A. *Orders to Repair, Alter, Improve, Vacate or Close.* If an owner fails to comply with an order to repair, alter, improve or vacate or close the non-residential building or structure, the Board of Alderman may adopt an ordinance ordering the enforcement officer to implement the purpose of this chapter with respect to the property. The property shall be described in the ordinance, which shall be recorded in the office of the Register of Deeds and indexed to the name of the property owner(s) in the grantor index. Following adoption of the ordinance, the enforcement officer may cause the building or structure to be repaired, altered, or improved or to be vacated or closed. The enforcement officer may post on the

main entrance of the building or structure that is closed a placard advising that “This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful”.

- B. *Orders to Remove or Demolish.* If the owner fails to comply with an order to remove or demolish the building or structure, the Board of Alderman may adopt an ordinance ordering the enforcement officer to implement the purpose of this chapter with respect to the building or structure. No ordinance shall be adopted to require demolition of a building or structure until the owner has been given a reasonable opportunity to bring it into conformity with the minimum standards. The property shall be described in the ordinance, which shall be recorded in the office of the Register of Deeds and indexed in the name of the property owner(s) in the grantor index. Following adoption of the ordinance, the enforcement officer may cause the building or structure to be removed or demolished.

§ 155.13 Abandonment of Intent to Repair.

If the Board of Alderman has adopted an ordinance or the 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 such ordinance or order, the Board of Alderman may find 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 a vacated and closed status would be inimical to the health, safety, and welfare of the town, in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children or 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 Board of Alderman may enact an ordinance and serve such ordinance on the owner. If the cost to repair the building or structure to bring it into compliance with the minimum standards is 50% or less of its then current value, the ordinance shall require the owner to either repair or demolish and remove the building or structure within 90 days. If the cost to repair the building or structure to bring it into compliance with 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. Vacant manufacturing facilities or vacant industrial warehouses must have been vacated and closed pursuant to an order of ordinance for five years before the Board of Alderman may take action under this section. The ordinance shall be recorded in the office of the Register of Deeds, indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the enforcement officer shall implement the purpose of the ordinance.

§ 155.14 Service of Complaints and Orders.

Complaints or orders issued by the enforcement officer pursuant to an ordinance adopted under this chapter shall be served upon persons either personally or by registered or certified mail, as long as the means are reasonably designed to achieve actual notice. Copies 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 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the affected premises. If the identities of any owners or the whereabouts of persons are unknown and cannot

be ascertained by the enforcement officer in the exercise of due diligence, and the enforcement officer makes an affidavit to that effect, serving of the complaint or order may be made by publication, at least once no later than the time that personal service would be required, in a newspaper having general circulation in the town. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the affected premises.

§ 155.15 Liens.

The cost of repairs, alterations, or improvements, or of vacating and closing, or of removal or demolition by the enforcement officer under the provisions of this chapter shall be a lien against the real property upon which the cost was incurred. The lien shall have the same priority and shall be collected as the lien for special assessment under Chapter 10, Chapter 160A of the General Statutes. The costs shall also be a lien on any other real property of the owner located within the town except for the owner's primary residence; this additional lien is inferior to prior liens and shall be collected as a money judgment.

§ 155.16 Salvage of Materials Following Demolition.

If a non-residential building is removed or demolished by the enforcement officer, he or she shall offer for sale any recoverable building materials and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the net proceeds of the sale, if any, against the cost of the removal or demolition. Any balance remaining shall be deposited in the superior court, secured in a manner directed by the court, and disbursed by the court to the persons found to be entitled thereto.

§ 155.17 Ejectment.

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the local government to remove the occupant. The action to vacate is in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure.

§ 155.18 Civil Penalty.

Failure to comply with an order entered pursuant to this chapter may subject the offender to a civil penalty in the amount of \$75 for each day the violation(s) continue to exist. The imposition of civil penalties does not limit the use of any other lawful remedies available to the Town for the enforcement of this chapter, including the remedies provided for in this chapter.

§ 155.19 Registration of Vacant Buildings Required.

- A. The purpose of the requirement to register vacant buildings as set forth in this section is to:
 1. Identify ownership and establish a point of contact between the owner and the Town;
 2. Ensure owners are aware of the obligations of ownership under relevant codes and regulations of the Town;

3. Ensure minimum standards of maintenance of non-residential buildings are met in furtherance of the protection of health and safety of citizens;
 4. Preserve the integrity of the Town's downtown and commercial centers that serve as the foundation of the local economy;
 5. Protect against the threat of inadequate maintenance that inheres with abandoned and vacant buildings;
 6. Reduce the risk of damage from fire, flooding, or other hazards, and to promote prosperity and opportunity for our citizens;
 7. Assess a fee structure for registration of vacant buildings that covers the Town's administrative costs of ensuring code compliance for vacant buildings which pose a heightened risk of dangers due to neglect, disrepair, and lack of monitoring.
- B. Registration Required. A commercial property that has not been legally occupied in excess of ninety (90) days is deemed a ***vacant building*** under this section and requires the owner of the property upon which the building is erected to register it as a vacant building. The owner shall register the building with the Town within the 90-day vacancy period unless the owner can provide clear and convincing evidence that the building is not vacant. For properties that exhibit evidence of vacancy, if registration is not made within ninety (90) days, the Town Administrator or his/her designee shall send a notice of registration to the owner of record. Registration compliance shall occur within twenty (20) days of the notice date. Property owners failing to complete the registration requirements shall be subject to violations and penalties as described in this section.
- C. Exemptions. The following buildings shall be eligible for exemption from the registration requirement:
1. Buildings with damage resulting from fire or natural disaster. In such case, the owner shall have one hundred fifty (150) days to repair or demolish the building. If the repair or demolition cannot be completed within one hundred fifty (150) days, the owner shall register the property as a vacant building pursuant to the requirements of this section.
 2. 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, provided that the building has been actively and continuously marketed through a licensed real estate broker; the listed price for sale or lease is not unreasonably in excess of the market rate; satisfactory proof of marketing and advertising are provided to the Town; and the owner has demonstrated good faith in marketing the property.
 3. The property is actively being renovated in preparation for occupancy. Renovations shall not exceed one hundred eighty (180) days unless agreed to by the Town Administrator in writing for purposes of the exemption. In any event, the Town is permitted to inspect the work on a monthly basis to ensure renovations are progressing timely and are otherwise in conformance with the exemption provided herein.

- D. Registration Fees. Registration of vacant buildings shall be for a 12-month term and must be submitted annually so long as the building remains vacant. The annual registration fee shall be \$500, and shall be paid at the time the registration application is submitted to the Town. Fees are not subject to proration and are non-refundable. In addition to the application and registration fee, the owner shall be required to submit proof of insurance of the vacant building of no less than \$100,000 in general liability coverage.
- E. Violations. The failure or refusal for any reason by an owner to properly register a vacant building shall be assessed a civil fine in the amount of \$500. Failure to register a vacant building within 30 days of receiving the \$500 fine shall result in a civil fine of \$25 per calendar day in which the building thereafter is not properly registered. Each day of non-compliance shall constitute a separate and distinct violation. Civil fines owed to the Town pursuant to this section shall be collectible in the nature of a debt per G.S. 160A-175 and the Town is permitted to collect on non-payment of any fees owed to the Town arising out of the requirements of this section using any remedy permitted by law or in equity. Notwithstanding civil penalties which may be imposed, any person who violates the provisions of this section shall be guilty of a Class 3 misdemeanor.
- F. Effective Date. The registration of vacant buildings provided for in this section shall become effective on December 1, 2025. Any vacant buildings existing shall be registered in accordance with this section within 90 days of said Effective Date. Any buildings thereafter becoming vacant shall be subject to the requirements of this section.

§ 155.20 Nuisance Abatement Authority.

Nothing in this chapter shall be construed to impair or limit the power of the Board of Alderman to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

§ 155.21 Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this chapter.

SECTION 2:

This Ordinance shall become effective immediately upon its adoption.

Duly adopted and effective, this the _____ day of _____, 2025.

Eddie Yelverton, Mayor

ATTEST

Name: _____

Title: Town Clerk