CITY OF CHARLOTTE

Policy Referral: Minimum Housing Code

HOUSING, SAFETY AND COMMUNITY COMMITTEE

JANUARY 6, 2025

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Today's Discussion

- Policy Referral Summary
- Overview of Minimum Housing Code
- Code Enforcement Process and Actions
- Referral Next Steps
- Committee Discussion

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Referral Summary

- **Policy Question**
  - What potential policy considerations may be needed to strengthen the city's ability to ensure safe housing for residents of lodging establishments (e.g., hotel/motel) and multi-family dwellings (e.g., apartment community)?
- **Committee Charge**
  - Review the city's Minimum Housing Code
  - Review existing enforcement tools and the applicable legal framework
  - Review enforcement tools used by other large North Carolina cities
  - Determine if any applicable ordinance changes and/or policy recommendations are needed

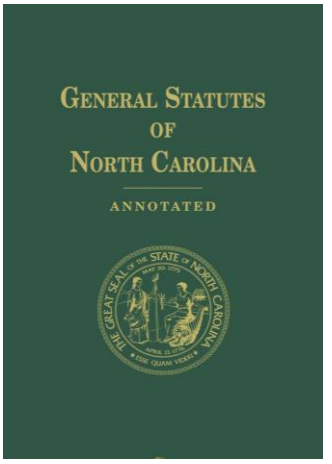
Setting the Stage

- **Council goal to ensure safe, healthy, affordable housing**
- **Minimum housing code is one of many tools, but can't accomplish everything**
- **Involves balancing diverse needs and multiple perspectives**

Legal Framework

- North Carolina general statutes provide the specific authority for cities to adopt minimum housing codes
- These statutes set forth the procedural parameters for minimum housing codes (i.e. notice requirements, appeal timetables, etc.) and the available remedies which cannot be modified by cities
- Cities may develop their own minimum standards
- Charlotte's minimum housing code applies to dwellings and lodging establishments not regulated by Mecklenburg County

- **References:**
  - N.C.G.S. Chapter 160D, Article 12
  - Charlotte Code of Ordinances Chapter 11



Minimum Housing Code

- **Chapter 11 of the Charlotte Code of Ordinances establishes minimum standards of fitness for dwellings and an enforcement process to ensure that homeowners and property providers maintain safe and sanitary conditions**
- **The Minimum Housing Code applies to all single-family and multi-family dwellings**
  - Includes condos and townhomes
  - Includes rooming houses and lodging establishments (hotel/motel) unless regulated by Mecklenburg County Environmental Health
- **Last revised in 2019 – major update through referral process**

Minimum Standards of Fitness

Minimum Standards

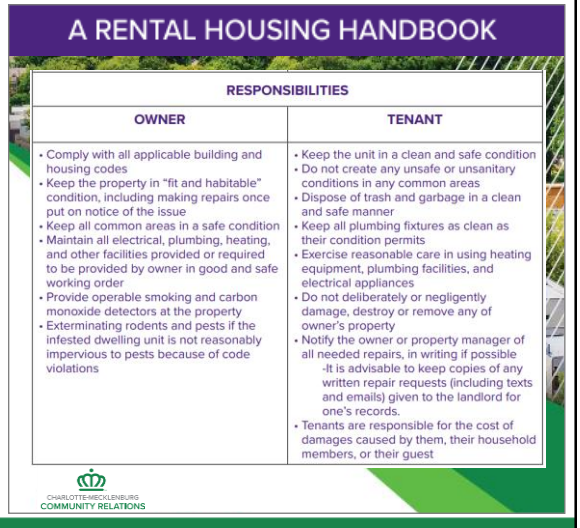
- Space and Use
- Light and Ventilation
- Exit Requirements
- Plumbing, HVAC, and Electrical Facilities
- Structural Standards
- Property Maintenance
- Insulation

Common Violations

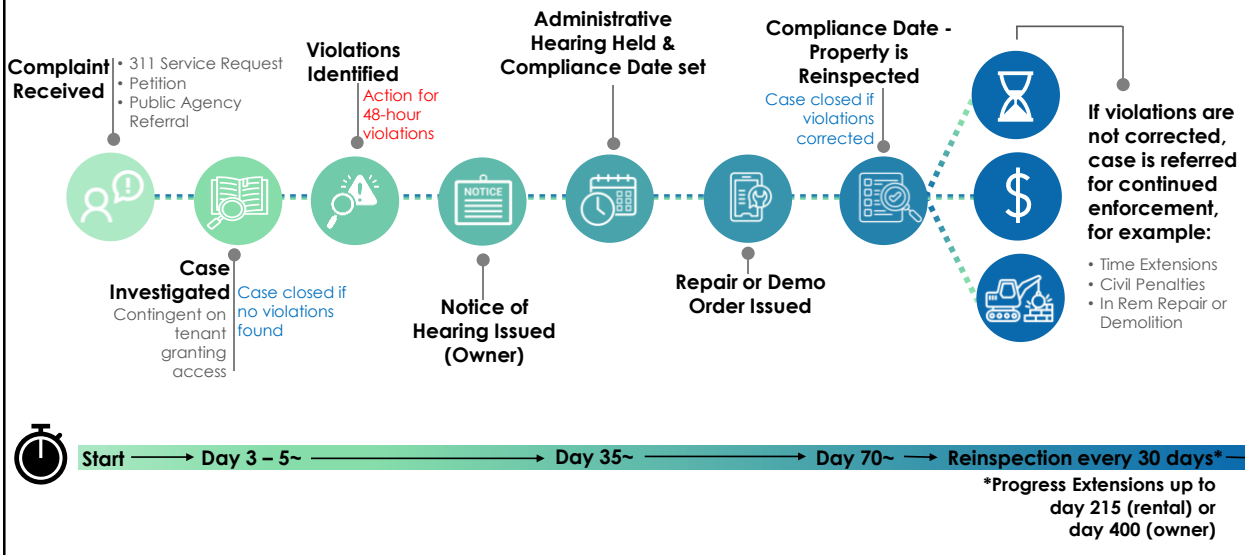
- Inoperable smoke/carbon monoxide detectors
- Unclean and unsanitary conditions
- Unsafe wiring
- Inoperable heat during winter
- Plumbing defects

Responsibilities of Owners and Occupants

- **The responsibility for maintaining a clean, safe, and habitable rental unit is shared by both the property provider and the tenant(s)**
  - Specified in the ordinance
- **Community Relations resources:**
  - Landlord-tenant dispute resolution/ mediation services
  - When You Rent Handbook – education and resources for renters
- **Legal considerations:**
  - NC Landlord-Tenant Law
  - Legal advocacy resources



Enforcement Process



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Minimum Housing Code Data

Any given year…

- Code Enforcement staff inspects more than 50,000 properties across case types (Nuisance, Zoning, Minimum Housing and Non-Residential)
- Approximately 2,000 minimum housing code cases

Housing Cases FY 2022-to-date

- Over 7,500 cases
  - *29% dismissed (no violations found, duplicate complaints)*
  - *99% of closed cases achieved owner compliance*
  - *5 cases city demolished or repaired*
- Type
  - *2/3 multi-family or hotel/motel*
  - *1/3 single family, 72% of these are renter-occupied*
- Time
  - *Median days to close = 99*
  - *81% of cases closed within 215 days*

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Minimum Housing Code Data
Open and Persistent Cases

- **Minimum housing code cases open more than 215 days**
  - Over 60% are single-family units
  - ~150 multi-family cases
- **Property Risk Assessment and Mitigation**
  - Time elapsed
  - Cumulative number/percentage of units within a community
  - Properties with large civil penalty balances
  - Other displacement risk indicators (not code-related)

Enhanced Multi-Family Inspections

Woodland Park Apartments

Derita Apartments

Sharonridge Apartments

- **Established following the Lake Arbor displacement event to mitigate future challenges**
- **Process includes:**
  - Identify emerging challenges
    - *Quarterly report flagging apartment communities meeting a 15% threshold within a 24-month timeframe*
  - Conduct a comprehensive property evaluation
  - Establish and implement action plan for compliance
- **Some successes, challenges remain**

Code Enforcement Actions

- **When violations are not corrected, the case is referred for further enforcement action, which may include:**
  - Time Extensions
  - Civil Penalties
  - In Rem Demolition
  - In Rem Repair
  - In Personam Remedy
- **Actions are not mutually exclusive**
- **Each tool has opportunities and limitations, success depends on the unique situation and responsiveness of the owner**

Code Enforcement Actions

Enforcement Action: Extensions	
How It Works	**Challenges**
• Time extensions may be granted for good cause shown. • Provides property owners additional time to comply with code violations, reducing the immediate pressure on them. • Can help owners who are making good faith efforts but need more time due to financial or logistical challenges.	• Extensions can be abused by property owners who repeatedly delay compliance without making significant progress. • The excessive use of extensions can make the enforcement process appear lenient or ineffective, potentially undermining the city's ability to ensure timely compliance. • Under landlord-tenant law, a property owner can't compel the tenant to allow access to the unit for repairs. Property owner must pursue eviction if tenant is non-cooperative.
Displacement Impact: Low	

Code Enforcement Actions

Enforcement Action: Civil Penalties	
How It Works	**Challenges**
• Property owner subject to civil penalties of $100 per case per day. • May create a financial incentive for property owners to begin and complete necessary repairs promptly. • Collected penalties contribute revenue to the North Carolina school system, benefiting public education.	• The collection rate is low, and penalties often go uncollected after a three-year period, limiting long-term effectiveness. • The penalties do not follow the property if the current owner transfers or sells its interest. • The penalty structure can lead to undue hardship for property owners, potentially causing further financial strain.
Displacement Impact: Low	

Code Enforcement Actions

Enforcement Action: In Rem Demolition	
How It Works	**Challenges**
• City Council approves an ordinance directing code official to demolish structure. • Eliminates blighted, unsafe structures, improving the overall community conditions and safety. • Frees up land for new development, potentially spurring economic growth. • Reduces opportunity for vagrancy and criminal activity by removing abandoned buildings. • The city places a lien on the property for the costs of demolition.	• Requires that the costs to repair the property (not just individual units) would exceed 65% of the structure value. • The city places a lien on the property, with the risk of not recovering demolition costs if the lien is not paid. • Temporary housing and storage costs for displaced occupants. • City assumes costs associated with testing for hazardous materials (asbestos, lead paint) and any necessary abatement. • The removal of housing stock could reduce the overall availability of affordable housing in the area.
Displacement Impact: High	

Code Enforcement Actions

Enforcement Action: In Rem Repair	
How It Works	**Challenges**
• City Council approves an ordinance directing code official to repair structure. • Brings the property into compliance with the minimum housing code, addressing safety and habitability issues. • Ensures a safe and sanitary living environment for current occupants. • Eliminates code violations, improving neighborhood conditions. • The city places a lien on the property for the cost of repairs.	• Before work can begin, the often-lengthy housing code process (including any owner appeals) must be completed. • Temporary housing must be provided for displaced occupants, incurring additional costs. Storing occupants' personal belongings during repairs adds logistical and financial burdens. • City assumes costs associated with testing for hazardous materials (asbestos, lead paint) and any necessary abatement. • No legal recourse for tenants who refuse access to their units. And tenants do not have to pay rent after final order to repair. Can create a no-win cycle/situation. • After repairs are made, there is no mechanism to prevent displacement – owner can give notice of non-renewal, raise rents, and/or evict. • Tenants may still be dissatisfied with living conditions. • To recoup the costs, city must foreclose on the property within ten years or wait for a sale with no guarantee that the sale price will cover the lien amount. • Foreclosure is resource intensive to pursue. Action requires a foreclosure attorney. Does not guarantee that the property will come under city control or that the ultimate buyer will be a responsible property owner.
Displacement Impact: Medium/High	

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Code Enforcement Actions

Enforcement Action: In Personam Remedy	
How It Works	**Challenges**

• Provides a legal avenue to pursue compliance, giving the city additional tools to enforce housing codes and regulations.
  • Environmental Court
  • Injunctive relief in Superior Court (requires Council resolution directing the city attorney to petition)
	• There is no guaranteed outcome; many cases are reset or continue indefinitely.
	• Cases can be time-consuming, with frequent continuances requested by the district attorney's office, prolonging enforcement and delaying compliance.
	• If the case is finally heard by a judge and an order is issued, the penalty for the owner's non-compliance with the order is contempt which is usually a minimal monetary fine. Recently, the City has struggled to obtain compliance of significant violations using this method.

Displacement Impact: Low	

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Other Jurisdictional Authority

- **Mecklenburg County**
  - Environmental Health – regulated establishments
  - Abatement of Public Health Nuisance
- **Chapter 19 Forfeiture**
  - Must be led by CMPD, federal court
- **Fire Code Designation of Unsafe Buildings**
  - Structures that constitute a fire hazard

- **Each option has challenges and limitations, e.g., may have a high legal bar, can be resource intensive to pursue**

Incentives & Resources

- **When owner is willing and cooperative, incentives and resources are available to repair properties and maintain affordability**

- **Single-family emergency repair and rehab programs**

- **Property sale to NOAH provider**
  - City invests in acquisition/rehabilitation with a new owner and creates deed restrictions

- **Multi-family rehab loan**
  - City invests in housing rehabilitation with existing owner and creates deed restrictions
  - Piloted in Corridors – no uptake, working on program design

Next Steps

- **Community Engagement – January and February**
  - Focused Stakeholder Meetings
  - Community Engagement Session
  - Community Survey
- **Case Studies**
  - Tanglewood Apartments
  - Lamplighter Inn
- **Other NC Municipalities and Best Practice Research**
- **Preliminary Recommendations**

Committee Discussion