MEMO TO: Mayor and City Council Members

FROM: Jean Derby

SUBJECT: Resolution to Authorize and Direct City Attorney to Petition for Court Order Directing Compliance with Order from Code Enforcement Officer Regarding the Abandoned Structure Ordinance for **812 S. Aspen Street**

DATE: April 4, 2024

Property Address

812 S. Aspen Street

Property Owner

Vanessa Kaye Deland

Code Enforcement Activity Summary

Code Violation Determined: The building has deteriorated, rear portion has fallen in, and is unsafe.

Notices of Violation/ Order of Code Enforcement Officer sent by regular mail.

- Finding of Fact letter: 07.06.2023
- Notice of Violation: 12.08.2023
- Citation #1: 12.28.2023
- Citation #2: 01.11.2024
- Citation #3: 01.26.2024
- Citation #4: 02.09.2024

Fines reached $28,850 on March 22, 2024, and continue to accumulate at $500 per day. The above notices of violation, photo documentation, and case notes of violations are attached.

Action Requested

Adoption of the attached resolution to authorize and direct the City Attorney to petition the Superior Court for an order directing the owner to comply with the order of the Code Enforcement Officer.

RESOLUTION AUTHORIZING AND DIRECTING CITY ATTORNEY TO PETITION SUPERIOR COURT FOR AN ORDER REQUIRING THE OWNER OF CERTAIN PROPERTY LOCATED AT 612 S. ASPEN STREET IN THE CITY OF LINCOLNTON TO COMPLY WITH THE ORDER OF THE CODE ENFORCEMENT OFFICER

WHEREAS, the City Council of the City of Lincolnton finds that the situation herein described is an abandoned structures which the City Council finds to be hazardous to the health, safety and welfare of the residents of the city due to the attraction of insects or rodents, conditions creating a fire hazard; dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. in violation of the Section 150.051-150.059 of the City Code, Abandoned Structures, and thereby constitutes a safety hazard and is dangerous to life, health and other property and that all of the procedures of the Code of the City of Lincolnton, North Carolina, have been complied with; and

WHEREAS, the owner of this property has failed to comply with a lawful Order of the Code Enforcement Official to remedy the same within the time therein prescribed; and

WHEREAS, G. S. 160D-1201 and Sections 150.051 through 150.059 of the Code of the City of Lincolnton, North Carolina, empowers the City of Lincolnton to seek enforcement when an Order of the Code Enforcement Official is not complied with; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lincolnton that the City Attorney is hereby authorized and directed to proceed, as authorized by G. S. 160D-1201 to petition the Superior Court of Lincoln County for an order requiring the owner, Vanessa Kaye Deland, of the property located at 812 S. Aspen Street in the City of Lincolnton, North Carolina, to take such steps as may be necessary to comply fully with the Order of the Code Enforcement Official issued pursuant to the Abandoned Structure Ordinance contained in Chapter 150 of the Code of the City of Lincolnton, North Carolina.

This Resolution shall become effective upon adoption.

_____
ED HATLEY, MAYOR

ATTEST:

_____
DAPHNE INGRAM, CITY CLERK

PLANNING & INSPECTIONS DEPARTMENT
Joshua L. Grant, Manager

June 23, 2023

Vanessa Kaye Deland
20 Morris Street
Mayville NY 14757

Re: Abandoned Structure Ordinance Violation

This letter serves to notify you of a violation of Lincoln County's Abandoned Structure Ordinance on property at 812 S Aspen St Lincolnton, NC 28092 (Parcel ID:90659).

Observed violations of the Abandoned Structure Ordinance are marked below:

- ☒ The attraction of insects and rodents;
- ☒ Dangerous conditions constituting a threat to children;
- ☐ Frequent use by vagrants as living quarters in the absence of sanitary facilities
- ☒ Holes or cracks in the structure's floors, walls, ceilings or roof, which might attract or admit rodents or insects, or become breeding places for rodents or insects;
- ☐ The collection of garbage, rubbish or combustible material which constitutes a fire hazard in the structure;
- ☐ Windows or framing deteriorated.

You are being notified that a hearing will be held before the Chief Building Official of Lincoln County in the Third Floor Conference room located at 115 W. Main St. Lincolnton, NC 28092 at 8:30am of the July 5, 2023.

At the hearing, you shall be entitled to file answer to the complaint and to be heard in person or by counsel upon all legal and factual questions relating to this matter and shall be entitled to offer such evidence which is relative or material to the questions sought to be determined or the remedies sought to be affected.

You are further notified that if, upon such hearing, the Chief Building Official, shall find that the conditions of the above described structure do in fact violate the provisions of the Lincoln County Abandoned Structure Ordinance and do in fact render such structure hazardous to the health, safety and welfare of the residents of Lincoln County, the Chief Building Official will issue an order in writing directed to the owner of such structure to remedy these conditions by repairing the same or else by demolishing or removing the same, or by taking such steps as may be necessary to remedy these conditions. The Chief Building Official may make such other orders and follow such other procedures as are authorized under the Code of Ordinances of Lincoln County and the General Statutes of the State of North Carolina.

Regards,



Jeff Wesdyk
Chief Building Official

PLANNING & INSPECTIONS DEPARTMENT
Joshua L. Grant, Manager

July 6, 2023

Vanessa Kaye Deland
20 Morris Street
Mayville, NY 14757

Re: Abandoned Structure Ordinance Violation

As a result of the abandoned Structure Petition filed against the property at 812 S. Aspen ST Lincolnton NC 28092 (Parcel ID 90659:), a hearing was conducted on Wednesday, July 5th 20223 at 8:30am in the third floor conference room located at 115 W. Main St. Lincolnton, NC 28092. The petition filed and subsequent inspections on the property indicated the presence of the following violations of the Ordinance:

- ☒ The attraction of insects and rodents;
- ☒ Dangerous conditions constituting a threat to children;
- ☐ Frequent use by vagrants as living quarters in the absence of sanitary facilities
- ☒ Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents or insects, or become breeding places for rodents or insects;
- ☐ The collection of garbage, rubbish or combustible material which constitutes a fire hazard in the structure;
- ☐ Windows or framing deteriorated.

Those present at the hearing included Jeff Wesdyk, Chief Building Official, Joshua Grant, Planning and Inspections Manager, Trey Parker Code Enforcement Officer, David Workman Code Enforcement Officer, Jean Derby, City of Lincolnton Planning Director and Don Deland representing property owner.
As a result of the hearing it was determined that you have 90 days to obtain the proper permits and begin renovations and repairs to the building or to obtain a demolition permit and begin removing the building from the property remedy violations of the abandoned structure ordinance.

Regards,

o. 704.736.8440 lincolncounty.org 115 W. Main St. | Lincolnton, NC 28092

Jeff Wesdyk
Chief Building Official

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Code Enforcement

December 8, 2023

Vanessa Kaye Deland
20 Morris Street
Mayville NY 14757

Subject: Notice of Violation for Abandoned Structure

Property Owner:

As you are aware, your property located at 812 S Aspen St Lincolnton, NC 28092 (Parcel ID:90659) has been deemed an abandoned structure by The City of Lincolnton and you were provided with 90 days to remedy the situation related to the abandoned structure on the property. As of the date of this letter, it appears that no action has been taken to remedy the abandoned structure on the property pursuant to the Order entered by Lincoln County's Chief Building Official.

Failure to comply with the above-mentioned Order will result in the City Manager, or their designee, presenting a request to the City Council for a resolution directing the City Attorney to petition the Superior Court for an order directing you to comply with said Order pursuant to Section 150.050 - 150.059 of the City of Lincolnton Code of Ordinances. If you have initiated the process to remedy this situation, please contact our office immediately.

Please correct this violation within fifteen (15) days so that no further action will need to be taken. The Compliance deadline is (December 23, 2023). Please contact me at 704-736-8729 between the hours of 8:30 a.m. and 5:00 p.m. Monday-Friday or taparker@lincolncounty.org; if you have any questions. Thank you in advance for your cooperation.

Trey Parker
Code Enforcement Officer

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Code Enforcement

December 28, 2023

Vanessa Kaye Deland
20 Morris Street
Mayville NY 14757

Subject: First citation for zoning violation

Property Owner:

On December 8, 2023, a Notice of Violation was sent notifying you of a violation of City of Lincolnton's zoning regulations on your property at 812 S Aspen St Lincolnton, NC 28092 (Parcel ID:90659). As of December 20, 2023, it appears that no action has been taken to remedy the abandoned structure on the property pursuant to the Order entered by Lincoln County's Chief Building Official.

Failure to comply with the above-mentioned Order will result in the City Manager, or their designee, presenting a request to the City Council for a resolution directing the City Attorney to petition the Superior Court for an order directing you to comply with said Order pursuant to Section 150.050 - 150.059 of the City of Lincolnton Code of Ordinances. If you have initiated the process to remedy this situation, please contact our office immediately.

This citation carries a civil penalty of $100.00. You have 7 days to correct this violation or you will be subject to an additional civil penalty of $250.00 if the violation is not corrected.

If you have any questions or would like to discuss this matter, please feel free to contact me at (704) 736-8729. Our office hours are 8 a.m. to 5 p.m., Monday through Friday.

Trey Parker
Code Enforcement Officer

Code Enforcement

Citation Number	1
Case Number	LCE23-00039
Date	December 28, 2023
Location of Violation:	812 S Aspen St
Name:	Vanessa Kaye Deland
Address:	20 Morris Street
City:	Mayville **State:** NY **Zip:** 14757

Description of Offense: Failure to comply with Order entered by Lincoln County's Chief Building Official.

Officer: Trey A. Parker

If you fail to pay the penalty within 20 days, the city may recover the penalty in a civil action in the nature of debt. Failure to correct the violation within seven (7) days shall result in the assessment of an additional civil penalty of $250.00.

This penalty may be paid at the City of Lincolnton Planning and Development Department, City Hall, 2nd Floor 114 W Sycamore St. Lincolnton, NC 28092. Business hours are 8 a.m. to 5 p.m., Monday through Friday.

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Code Enforcement

January 11, 2024

Vanessa Kaye Deland
20 Morris Street
Mayville NY 14757

Subject: Second citation for zoning violation

Property Owner:

On December 28, 2023, a first citation letter was sent notifying you of a violation of Lincoln County's zoning regulations on your property at 812 S Aspen St Lincolnton, NC 28092 (Parcel ID:90659). As of January 11, 2024, it appears that no action has been taken to remedy the abandoned structure on the property pursuant to the Order entered by Lincoln County's Chief Building Official. Accompanying this letter is a second citation for this violation.

Failure to comply with the above-mentioned Order will result in the City Manager, or their designee, presenting a request to the City Council for a resolution directing the City Attorney to petition the Superior Court for an order directing you to comply with said Order pursuant to Section 150.050 - 150.059 of the City of Lincolnton Code of Ordinances. If you have initiated the process to remedy this situation, please contact our office immediately.

This citation carries a civil penalty $250.00 You have 7 days to correct this violation or you will be subject to an additional civil penalty of $500.00 if the violation is not corrected.

If you have any questions or would like to discuss this matter, please feel free to contact me at (704) 736-8729. Our office hours are 8 a.m. to 5 p.m., Monday through Friday.

Trey Parker
Code Enforcement Officer

Code Enforcement

Citation Number	2
Case Number	LCE23-00039
Date	January 11, 2024
Location of Violation:	812 S Aspen St
Name:	Vanessa Kaye Deland
Address:	20 Morris Street
City:	Mayville **State:** NY **Zip:** 14757

Description of Offense: Failure to comply with Order entered by Lincoln County's Chief Building Official.

Officer: Trey A. Parker

Under the provisions of the City of Lincolnton Unified Development Ordinance, a penalty of $250.00 is hereby assessed. If this violation is not corrected, the penalty will increase to $500.00. If you fail to pay any penalties owed within 20 days, the city may recover the amount in a civil action in the nature of debt.

This penalty may be paid at the City of Lincolnton Planning and Development Department, City Hall, 2nd Floor 114 W Sycamore St. Lincolnton, NC 28092. Business hours are 8 a.m. to 5 p.m., Monday through Friday.

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Code Enforcement

January 26, 2024

Vanessa Kaye Deland
20 Morris Street
Mayville NY 14757

Subject: Third citation for zoning violation

Property Owner:

Accompanying this letter is a third citation for a violation of Lincoln County's zoning regulations on your property at 812 S Aspen St Lincolnton, NC 28092 (Parcel ID:90659). As of January 26, 2024, it appears that no action has been taken to remedy the abandoned structure on the property pursuant to the Order entered by Lincoln County's Chief Building Official.

This citation continues a civil penalty of $500.00 To date, the penalties assessed against you amount to $850.00. This letter serves as notice that the City of Lincolnton will seek to recover these penalties in a civil action through Small Claims Court.

If you have any questions or would like to discuss this matter, please feel free to contact me at (704) 736-8729. Our office hours are 8 a.m. to 5 p.m., Monday through Friday.

Trey Parker
Code Enforcement Officer

Code Enforcement

Citation Number	3
Case Number	LCE23-00039
Date	January 26, 2024
Location of Violation:	812 S Aspen St
Name:	Vanessa Kaye Deland
Address:	20 Morris Street
City:	Mayville **State:** NY **Zip:** 14757

Description of Offense: Failure to comply with Order entered by Lincoln County's Chief Building Official.

Officer: Trey A. Parker

This citation continues a penalty of $500.00. To date, the penalties assessed in this case amount to 850.00. If you fail to pay any penalties owed within 20 days, the city may recover the amount in a civil action in the nature of debt.

This penalty may be paid at the City of Lincolnton Planning and Development Department, City Hall, 2nd Floor 114 W Sycamore St. Lincolnton, NC 28092. Business hours are 8 a.m. to 5 p.m., Monday through Friday.

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Code Enforcement

February 9, 2024

Vanessa Kaye Deland
20 Morris Street
Mayville NY 14757

Subject: Fourth citation for zoning violation

Property Owner:

On January 26, 2024, a third citation letter was sent notifying you of a violation of Lincoln County's zoning regulations on your property at 812 S Aspen St Lincolnton, NC 28092 (Parcel ID:90659). An inspection on February 8, 2024, found that this violation has not been corrected. As of February 9, 2024, it appears that no action has been taken to remedy the abandoned structure on the property pursuant to the Order entered by Lincoln County's Chief Building Official. Failure to comply with the above-mentioned Order will Accompanying this letter is a fourth citation for this violation.

Failure to comply with the above-mentioned Order will result in the City Manager, or their designee, presenting a request to the City Council for a resolution directing the City Attorney to petition the Superior Court for an order directing you to comply with said Order pursuant to Section 150.050 - 150.059 of the City of Lincolnton Code of Ordinances. If you have initiated the process to remedy this situation, please contact our office immediately.

This citation continues a civil penalty of $500.0 per day the violation exists. To date, the penalties assessed against you amount to $7,850.00. This letter serves as notice that the City of Lincolnton will seek to recover these penalties in a civil action through Small Claims Court.

If you have any questions or would like to discuss this matter, please feel free to contact me at (704) 736-8440 or on my mobile at (980) 429-6961. Our office hours are 8 a.m. to 5 p.m., Monday through Friday.

Trey Parker
Code Enforcement Officer

Code Enforcement

Citation Number	4
Case Number	LCE23-00039
Date	February 9, 2024
Location of Violation:	812 S Aspen St
Name:	Vanessa Kaye Deland
Address:	20 Morris Street
City:	Mayville **State:** NY **Zip:** 14757

Description of Offense: Failure to comply with Order entered by Lincoln County's Chief Building Official.

Officer: Trey A. Parker

This citation continues a penalty of $500.00 per day. To date, the penalties assessed in this case amount to 7,850.00. If you fail to pay any penalties owed within 20 days, the city may recover the amount in a civil action in the nature of debt.

This penalty may be paid at the City of Lincolnton Planning and Development Department, City Hall, 2nd Floor 114 W Sycamore St. Lincolnton, NC 28092. Business hours are 8 a.m. to 5 p.m., Monday through Friday.















TAP	INITIAL INSPECTION
Building is dilapidated. Roof has fell in.	
6/23/2023 1:08:20 PM	

TAP	FOLLOW-UP INSPECTION
Owner plans to demolish or sale property. Will recheck in 90 days.	
7/6/2023 2:25:28 PM	

TAP	FOLLOW-UP INSPECTION
I did not observe any change to the property.	
10/3/2023 8:27:29 AM	

TAP	FOLLOW-UP INSPECTION
No change to the property.	
11/21/2023 1:00:56 PM	

TAP	FOLLOW-UP INSPECTION
I did not observe any to the property.	
12/5/2023 8:39:32 AM	

Trey Parker	FOLLOW-UP INSPECTION
I did not observe any change to the property.	
12/20/2023 1:47:41 PM	

Trey Parker	FOLLOW-UP INSPECTION
I did not observe any change to the property.	
1/11/2024 8:29:44 AM	

Trey Parker	FOLLOW-UP INSPECTION
I did not observe any change to the property.	
1/25/2024 8:50:05 AM	

Trey Parker	FOLLOW-UP INSPECTION

I did not observe any change to the property.	
2/8/2024 8:21:11 AM	

Trey Parker	FOLLOW-UP INSPECTION
I did not observe any change to the property.	
2/23/2024 9:47:06 AM	

Notes from Code Enforcement Officer Trey A. Parker pulled from TrakIt software.