

CHAPTER 8

Building Regulations

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ARTICLE 1

Adoption of Regulatory Codes
by Reference

Section 8.1 Scope of ordinance and codes.

The provisions of this Chapter and of the regulatory codes herein adopted shall apply to the following:

(1) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use, and occupancy of every building or structure or any appurtenances connected or attached to such building or structure;

(2) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof;

(3) The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning, and refrigeration systems, fuel burning equipment, and appurtenances thereof;

(4) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof;

The adoption of this Chapter and the codes herein adopted by reference shall constitute a resolution with the meaning of G.S. 143-138.

Section 8.2 Building code adopted.

The 1967 edition of the North Carolina State Building Code, Volume I, General Construction, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Building Code of the Town to the extent such Code is applicable for safe and stable design, methods of construction, minimum standards, and use of materials in building or structures hereafter erected, enlarged, altered, repaired, or otherwise constructed or reconstructed.

Section 8.3 Plumbing code adopted.

The 1983 edition of the North Carolina Plumbing Code (North Carolina State Building Code,

Volume II, Plumbing) as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Plumbing Code for the Town.

Section 8.4 Heating code adopted.

The 1971 edition of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating) as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Heating Code for the Town.

Section 8.5 Electrical code adopted.

The 1971 edition of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical), adopting by reference the 1965 edition of the National Electrical Code of the National Fire Protection Association as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Electrical Code for the Town.

Section 8.6 Residential building code.

The 1968 edition or later edition of the North Carolina Uniform Residential Building Code, as adopted by the North Carolina Building Inspectors Association, and as published by the North Carolina Building Code Council is hereby adopted by reference as fully as though set forth herein as the Residential Building Code for one and two family residential buildings in the Town.

Section 8.7 Amendments to codes.

Amendments to the regulatory codes adopted by reference herein, which are from time to time adopted and published by the agencies or organizations referred to herein shall be effective in the Town at the time such amendments are filed with the Town Clerk or Building Inspector as provided in Section 8.9.

Section 8.8 Compliance with codes.

(a) All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina State Building Code, General Construction, Volume I or the North Carolina Uniform Residential Building Code, whichever is applicable, or both if both are applicable.

(b) Every building or structure intended for human habitation, occupancy, or use shall have

plumbing, plumbing systems, or plumbing fixtures installed, constructed, altered, extended, repaired, or reconstructed in accordance with the minimum standards, requirements, and other provisions of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing).

(c) All mechanical systems consisting of heating, ventilating, air conditioning, and refrigeration systems, fuel burning equipment, and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating).

(d) All electrical wiring, installations and appurtenances shall be erected altered, repaired, used and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical).

Section 8.9 Copies of codes filed with Clerk.

An official copy of each regulatory code adopted herein, and official copies of all amendments thereto, shall be kept on file in the office of the Town Clerk or County Building Inspector. Such copies shall be the official copies of the codes and the amendments.

Section 8.10 through 8.12 reserved.

ARTICLE 2

Inspection Department

Section 8.13 Reports and records.

The Inspection Department, and each Inspector, shall keep complete, permanent, and accurate records in convenient form of all applications received, permits issued, inspections, and reinspections made, and all other work and activities of the Inspection Department. Periodic reports shall be submitted to the Board, and to other agencies, as required.

Section 8.14 Inspection procedure.

(a) Inspections. The Inspection Department shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this Chapter and the appropriate codes.

When deemed necessary by the appropriate Inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the same are in writing and certified by a responsible officer of such organization.

All holders of permits, or their agents, shall notify the Inspection Department and the appropriate Inspector at each of the following stages of construction so that approval may be given before work is continued:

(1) Foundation Inspection. To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles, and similar types of foundations shall be inspected as installed.

(2) Framing Inspection. To be made after all structural framing is in place and all roughing-in of plumbing and electrical and heating has been installed, after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured in place concrete structural elements shall be inspected before each pour of any structural member.

(3) Fireproofing Inspection. To be made after all areas required to be protected by fireproofing are lathed, but before the plastering or other fireproofing is applied.

(4) Final Inspection. To be made after building or structure has all doors hung, fixtures set, and ready for occupancy, but before the building is occupied.

(b) Calls for Inspection. Request for inspections may be made to the office of the Inspection Department or to the appropriate Inspector. The Inspection Department shall make inspections as soon as practicable after request is made therefor, provided such work is ready for inspection at the time the request is made.

Reinspections may be made at the convenience of the Inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the Inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate Inspector in the form of a notice posted on the building or given to the permit holder or his agent. Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this Chapter.

(c) Street or Alley Lines. Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley, or other public place, he shall secure a survey of the line of such street, alley, or other public place, adjacent to the property upon which such building or structure is to be erected before proceeding with construction of such building or structure. It shall be the duty of the Building Inspector to see that the building does not encroach upon such street, alley, or other public place.

(d) Certificate of Occupancy. No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Inspection Department has issued a certificate of occupancy therefor. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building. Application for a certificate of occupancy may be made by the owner or his agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary to determine compliance with this Chapter, the appropriate regulatory codes and any zoning ordinance for the occupancy intended. The Inspection Department shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this Chapter, the regulatory codes, and any zoning ordi-

nance for the occupancy intended. (See G. S. 160A-420, 160A-423, 160A-433.

Section 8.15 Oversight not to legalize violation.

No oversight or dereliction of duty on the part of any Inspector or other official or employee of the Inspection Department shall be deemed to legalize the violation of any provision of this Chapter or any provision of any regulatory code herein adopted.

Section 8.16 Powers of inspection officials.

(a) Authority. Inspectors are hereby authorized, empowered and directed to enforce all the provisions of this Chapter and the regulatory codes herein adopted.

(b) Right-of-Entry. Inspectors with proper identification shall have the right-of-entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this Chapter and the regulatory codes, upon presentation of proper credentials.

(c) Stop Orders. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner, or in violation of any provision of this Chapter or any other Town ordinance, or in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit or permits issued therefor, or in such manner as to endanger life or property, the appropriate Inspector may order such work to be immediately stopped. Such order shall be in writing to the owner of the property or to his agent, or to the person doing the work, and shall state the reasons therefor and the conditions under which the work may be resumed.

Section 8.17 through 8.20 reserved.

ARTICLE 3

Enforcement

Section 8.21 Plans and specifications.

Detailed plans and specifications shall accompany each application for permit when the estimated total cost of the building or structure is in excess of twenty thousand dollars (\$20,000), and for any other building or structure where plans and specifications are deemed necessary by the appropriate Inspector in order for him to determine whether the proposed work complies with the appropriate regulatory codes. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of the Chapter and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate Inspector.

Section 8.22 Limitations on issuance of permits.

(a) Where any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for such work shall be issued unless it is to be performed by such licensed specialty contractor.

(b) Where detailed plans and specifications are required under this Chapter, no building permit shall be issued unless such plans and specifications have been provided.

Section 8.23 Issuance of permit.

When proper application for a permit has been made, and the appropriate Inspector is satisfied that the application and the proposed work comply with the provisions of this Chapter and the appropriate regulatory codes, he shall issue such permit, upon payment of the proper fee or fees as hereinafter provided in Section 8.24.

Section 8.24 Permit fees.

Fees for permits shall be based upon the total estimated cost of the proposed work, including all sub-contracts if any, but in no case shall the total estimated cost be less than the market value of similar completed work in the Town as determined by the appropriate Inspector or Inspectors. Permit fees shall be as follows:

(a) Building Permit Fees (see schedule of fees

in office of Building Inspector).

(b) Plumbing Permit Fees (see schedule of fees in office of Plumbing Inspector).

(c) Heating—Air Conditioning Permit Fees (see schedule of fees in office of Heating—Air Conditioning Inspector).

(d) Electrical Permit Fees (see schedule of fees in office of Electrical Inspector).

Section 8.25 New developments regulated.

No new developments will be annexed into the Town limits until streets are graveled and water and sewer lines are installed to the Town's specifications. (Ord. of 5/1/62)

Section 8.26 through 8.28 reserved.

ARTICLE 4

Condemnation, Repair, and Demolition of Unsafe Buildings

Section 8.29 Inspection department.

The Town is authorized to create an inspection department, and may appoint one or more inspectors who may be given the titles of building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector or deputy or assistant inspector, or such other titles as may be generally descriptive of the duties assigned. The department may be headed by a superintendent or director of inspections. (See G.S. 160A-411)

Section 8.30 Duties and responsibilities.

The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to:

(1) The construction of buildings and other structures;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the Board. These duties shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The Board shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws. (See G.S. 160A-412)

(5) No permit for alteration, repair or construction of any building or structure shall be issued unless the plans and specifications show that the building or structure, and its propose use, will be in compliance with applicable provisions of the zoning ordinance.

Section 8.31 Joint inspection department; other arrangements.

The Board may enter into and carry out contracts with another municipality, county, or combination thereof under which the parties

agree to create and support a joint inspection department for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties are authorized to make any necessary appropriations for this purpose.

In lieu of a joint inspection department, the Board may designate an inspector from any other municipality or county to serve as a member of its inspection department with the approval of the governing body of the other county. The inspector shall, while exercising the duties of the position, be considered a municipal employee.

The Board may request the board of county commissioners of the county in which the Town is located to direct one or more county building inspectors to exercise their powers within part or all of the Town's jurisdiction, and they shall thereupon be empowered to do so until the Board officially withdraws its request in the manner provided in G.S. 160A-360(g). (See G.S. 160A-413)

Section 8.32 Financial support.

The Board may appropriate for the support of the inspection department any funds that it deems necessary. It may provide for paying inspectors fixed salaries or it may reimburse them for their services by paying over part or all of any fees collected. It shall have power to fix reasonable fees for issuance of permits, inspections, and other services of the inspection department. (See G.S. 160A-414)

Section 8.33 Conflicts of interest.

No member of an inspection department shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the Town's jurisdiction or any part or system thereof, unless he is the owner of the building. No member of an inspection department shall engage in any work that is inconsistent with the interest of the Town. (See G.S. 160A-415).

Section 8.34 Failure to perform duties.

No member of an inspection department shall willfully fail to perform the duties required of him by law, or willfully shall improperly issue a permit, nor shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance. (See G.S. 160A-416)

Section 8.35 Permits.

No person shall commence or proceed with:

(1) The construction, reconstruction, alteration, repair, removal or demolition of any

building or structure;

(2) The installation, extension or general repair of any plumbing system;

(3) The installation, extension, alteration or general repair of any heating or cooling equipment system; or

(4) The installation, extension, alteration or general repair of any electrical wiring, devices, appliances, or equipment, without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work. A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. (See G.S. 160A-417)

Section 8.36 Time limitations on validity of permits.

A permit issued pursuant to Section 8.35 shall expire by limitation six months, or any lesser time fixed by ordinance of the Board, after the date of issuance if the work authorized by the permit has not been commenced. If after commencement the work is discontinued for a period of twelve months, the permit therefor shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured. (See G. S. 160A-418)

Section 8.37 Changes in work.

After a permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the inspection department. (See G.S. 160A-419)

Section 8.38 Stop orders.

Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of any State or local building law, or in a manner, that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped. The stop order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed. The owner or builder may appeal from a stop order to the North Carolina Commissioner of Insurance within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance, with a copy to the local inspector. The Commissioner of Insurance shall promptly conduct a hearing at which the appellant and the inspector shall be permitted to submit relevant evidence, and shall rule on the appeal as expeditiously as possible. Pending the ruling by the Commissioner of Insurance on an appeal no further work shall take place in violation of a stop order. Violation of a stop order shall constitute a misdemeanor. (See G.S. 160A-421)

Section 8.39 Revocation of permits.

The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of any applicable State or local law may also be revoked. (See G.S. 160A-422)

Section 8.40 Periodic inspections.

The inspection department shall make periodic inspections, subject to the Board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in structures within its territorial jurisdiction. In addition, it shall make inspections when it has reason to believe that such conditions may exist in a particular structure. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon

presentation of proper credentials. (See G.S. 160A-424)

Section 8.41 Defects in buildings to be corrected.

When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he owns. (See G.S. 160A-425)

Section 8.42 Unsafe buildings condemned.

Every building which shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building. (See G.S. 160A-426)

Section 8.43 Removing notice from condemned building.

No person shall remove any notice that has been affixed to any building or structure by a local inspector of any municipality and that states the dangerous character of the building or structure. (See G.S. 160A-427)

Section 8.44 Action in event of failure to take corrective action.

If the owner of a building or structure that has been condemned as unsafe pursuant to Section 8.41 shall fail to take prompt corrective action, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service,

(1) That the building or structure is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health, or other property;

(2) That a hearing will be held before the inspector at a designated place and time; not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the mat-

ter; and

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the Town at least once not later than one week prior to the hearing. (See G.S. 160A-428)

Section 8.45 Order to take corrective action.

If, upon a hearing held pursuant to the notice prescribed in Section 8.44, the inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, he shall make an order in writing, directly to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less than sixty days, as the inspector may prescribe. (See G. S. 160A-429)

Section 8.46 Appeal; finality of order if not appealed.

Any owner who has received an order under Section 8.44 may appeal from the order to the Board by giving notice of appeal in writing to the inspector and to the Town Clerk within ten days following issuance of the order. In the absence of an appeal, the order to the inspector shall be final. The Board shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order. (See G. S. 160A-430)

Section 8.47 Failure to comply with order.

If the owner of a building or structure fails to comply with an order issued pursuant to Section 8.44 from which no appeal has been taken, or fails to comply with an order of the Board following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court. (See G.S. 160A-431)

Section 8.48 Equitable enforcement.

Whenever any violation is denominated a misdemeanor, the Town, either in addition to or in

lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved. (See G.S. 160A-432)

Section 8.49 Appeals in general.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws shall be taken to the Commissioner of Insurance or other official specified in G.S. 143-139, by filing a written notice with him and with the inspection department within a period of ten days after the order, decision or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law. (See G.S. 160A-434)

Section 8.50 Restrictions within primary fire limits.

Within the primary fire limits, no frame or wooden building or structure or addition thereto shall be erected, altered, repaired, or moved (either into the limits or from one place to another within the limits), except upon the permit of the local inspection department approved by the Commissioner of Insurance. The Board may make additional regulations for the prevention, extinguishment, or mitigation of fires within the primary fire limits. (See G.S. 160A-436)

Section 8.51 Restriction within secondary fire limits.

Within any secondary fire limits, no frame or wooden building or structure or addition thereto shall be erected, altered, repaired, or moved except in accordance with any rules and regulations established by ordinance. (See G.S. 160A-437)

Section 8.52 House numbering.

All lots, buildings and structures in the city shall be numbered in accordance with the following plan:
North and south numbers shall commence at 100 Main Street.

East and west numbers shall commence at 100 Hall Avenue.

Odd numbers shall be on the east and north sides of the streets; even numbers shall be on the south and west sides of the streets.

There shall be one hundred numbers to each block; one number to every fifty feet of frontage.

The City Clerk shall keep a chart showing the proper street number of every lot in the city which

shall be open to inspection by anyone interested.

It shall be the duty of the owners and occupants of every house, building and other structure in the city to have placed thereon, in a place visible from the street, figures at least two and one-half inches high, showing the number of the house. Any person, firm, or corporation failing to so number any house, building or other structure occupied by him, or if after receiving notice to do so from the clerk shall continue in his failure to so number such house, building or structure shall be fined one dollar for each day during or on which a failure to so number continues. (Ord. of 5/10/83)

ARTICLE 5

Minimum Housing Standards

Section 8.53 Finding; purpose.

(a) Pursuant to G.S. 160A-441, it is hereby declared that there exist in the Town dwelling units and accessory structures which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents, and other calamities; lack of ventilation, light, and sanitary facilities; and other conditions rendering such dwellings unsafe or unsanitary; dangerous and detrimental to the health, safety and morals and otherwise inimical to the welfare of the residents of the Town.

(b) In order to protect the health, safety and welfare of the residents of the Town as authorized by Part 6 of Article 19, Chapter 160A of the General Statutes, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444. (Ord. of 5/5/87)

Section 8.54 Definitions.

The following definitions shall apply in the interpretation and enforcement of this ordinance:

(1) *Basement.* A portion of a dwelling which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

(2) *Cellar.* A portion of a dwelling which is located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

(3) *Deteriorated.* A dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this ordinance at a cost not in excess of fifty percent (50%) of its value, as determined by the finding of the inspector.

(4) *Dilapidated.* A dwelling is unfit for human habitation and cannot be repaired, altered, or improved to comply with all of the minimum standards established by this ordinance except at a cost in excess of fifty percent (50%) of its value, as determined by the finding of the inspector.

(5) *Dwelling*. Any building, structure, or part thereof which is wholly or partly used or intended to be used for living, sleeping, or habitation by human occupants, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. Temporary housing, as hereinafter defined, shall not be regarded as a dwelling. The term shall include within its meaning the terms rooming house and rooming unit, as hereinafter defined.

(6) *Dwelling Unit*. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

(7) *Extermination*. The control and elimination of insects, rodents, or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination methods approved by the inspector.

(8) *Garbage*. The organic waste resulting from the handling, preparation, cooking, and consumption of food.

(9) *Gender*. Words having a masculine gender shall include the feminine and neuter genders.

(10) *Habitable Room*. A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets, and storage spaces.

(11) *Infestation*. The presence, within or around a dwelling, of any insects, rodents, or other pests in such number as to constitute a menace to the health, safety, or welfare of the occupants or the public.

(12) *Inspector*. The housing inspector of the Town or any authorized agent of the inspector.

(13) *Multiple Dwelling*. Any dwelling containing more than two dwelling units.

(14) *Occupant*. Any person over one year of age, living, sleeping, cooking, or eating in or having actual possession of a dwelling, dwelling unit, or rooming unit.

(15) *Operator*. Any person who has charge, care, or control of a building, or part thereof, in which dwelling units or rooming units are let.

(16) *Owner*. Any person who alone, jointly or severally with other:

(a) Shall have title to any dwelling, dwelling unit, or rooming unit, with or without accompanying actual possession thereof; or

(b) Shall be a mortgagee of record for any dwelling, dwelling unit, or rooming unit; or

(c) Shall have charge, care, or control of any dwelling, dwelling unit, or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

(17) *Party or Parties in Interest*. All persons who have interests of record in a dwelling, dwelling unit, or rooming unit and any persons who are in possession thereof.

(18) *Person*. Any individual, corporation, firm, partnership, association, organization, or other legal entity.

(19) *Plumbing*. All of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

(20) *Public authority*. The Town housing authority or any officer who is in charge of any department or branch of the government of the Town, Caldwell County, or the State of North Carolina relating to health, fire, building regulations, or other activities concerning dwellings in the Town.

(21) *Rooming Houses*. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

(22) *Rooming Unit*. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(23) *Rubbish*. Non-organic waste materials. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust.

(24) *Supplied*. Paid for, furnished, or provided by, or under the control of, the owner or operator.

(25) *Temporary Housing*. Any tent, trailer, or other structure used for temporary shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any

utilities system on the same premises for more than thirty (30) consecutive days.

(26) *Unfit for Human Habitation* The conditions exist in a dwelling, dwelling unit, rooming house, or rooming unit which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this ordinance.

(27) *Words having certain meaning.* Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof." (Ord. of 5/5/87)

Section 8.55 Minimum standards of fitness for dwellings and dwelling units.

(a) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 8.55, 8.56, 8.57, 8.58, 8.59, and 8.60.

(b) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 8.55, 8.56, 8.57, 8.58, 8.59, and 8.60. (Ord. of 5/5/87)

Section 8.56 Minimum standards for structural condition.

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit.

(1) Walls or partitions or supporting members, sills, joists, rafters, or other structural members shall not list, lean, or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.

(2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(3) Foundations, foundation walls, piers, or other foundation supports shall not be deteriorated or damaged.

(4) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such good condition that they will not fail or collapse.

(5) Adequate facilities for egress in case of fire or panic shall be provided.

(6) Interior walls and ceiling of all rooms, closets, and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(7) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weathertight and watertight.

(8) There shall be no chimneys or parts thereof which are defective, deteriorated, or in danger of falling, or in such condition or location as to constitute a fire hazard.

(9) There shall be no use of the ground for floors, or wood floors on the ground. (Ord. of 5/5/87)

Section 8.57 Minimum standards for basic plumbing, heating, and electrical equipment and facilities.

(a) Plumbing system.

(1) Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of the same. The water closet and tub

or shower shall be located in a room or rooms affording privacy to the user.

(b) Heating system. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:

(1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms, and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of seventy (70) degrees Fahrenheit measured at a point three (3) feet above the floor during ordinary winter conditions.

(2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of seventy (70) degrees Fahrenheit measured three (3) feet above the floor during ordinary winter conditions.

(c) Electrical system.

(1) Every dwelling unit shall be wired for electrical lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room, and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment, and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the State Electrical Code. (Ord. of 5/5/87)

Section 8.58 Minimum standards for ventilation.

(a) General. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent (10%) of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light-obstructing structures are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen percent (15%) of the total floor area of such room.

(b) Habitable rooms. Every habitable room shall have at least one (1) window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least forty-five percent (45%) of the minimum window area size or minimum skylight-type window size as required, or shall have other approved equivalent ventilation.

(c) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system. (Ord. of 5/5/87)

Section 8.59 Minimum standards for space, use, and location.

(a) Room sizes. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code.

(1) Every dwelling unit shall contain at least one hundred and fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three occupants, and at least seventy-five

(75) square feet of additional habitable floor area for each additional occupant.

(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(b) Ceiling height. At least one-half ($\frac{1}{2}$) of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and six (6) inches.

(c) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent (10%) of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half ($4\frac{1}{2}$) feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

(d) Cellar. No cellar shall be used for living purposes.

(e) Basement. No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms;

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well, or accessway. (Ord. of 5/5/87)

Section 8.60 Minimum standards for safe and sanitary maintenance.

(a) Exterior foundation, walls, and roofs. Every foundation wall, exterior wall, and exterior floor shall be substantially weathertight and rodent proof; shall

be kept in sound condition and good repair; and shall be capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(b) Interior floors, walls, and ceilings. Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(c) Windows and doors. Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight, and rodent proof and shall be kept in sound working condition and good repair.

(d) Stairs, porches, and appurtenances. Every outside and inside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

(e) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

(f) Supplied facilities. Every supplied facility, piece of equipment, or utility which is required under this ordinance shall be so construed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(g) Drainage. Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

(h) Noxious weeds. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(i) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.

(j) Lead based paint.

(1) All interior surfaces must be either free of cracking, scaling, peeling, chipping, and loose paint or be adequately treated or covered (as discussed in (3) below) to prevent the exposure of the occupants to lead based paint hazards.

(2) All exterior surfaces (such as stairs, decks, porches, railings, windows, and doors) which are accessible to children under seven (7) years of age must be free of cracking, scaling, peeling, chipping, and loose paint or be adequately treated or covered (as discussed in (3) below) to prevent the exposure of such children to lead based paint hazards.

(3) All surfaces to be treated must be thoroughly washed, sanded, and scraped or wire-brushed so as to remove all hazards before repainting with at least two coats of suitable nonlead paint. All surfaces to be covered must have had the paint removed or covered with materials such as gypsum wallboard, plywood, drywall, plaster, or other suitable material. (Simply painting over surfaces requiring treatment or covering as an abatement method is not an acceptable means of compliance.) (Ord. of 5/5/87)

Section 8.61 Minimum standards for control of insects, rodents, and infestations.

(a) Screens. In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens. Dwelling buildings containing central heating, furnaces, and air-conditioning equipment for mechanically ventilating the building year round are not required to have screens on doors or window openings. Window type air-conditioning units are not included in this exception.

(b) Rodent control. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might prove an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.

(c) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect free condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling or in the public parts of any dwelling containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

(d) Rubbish storage and disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Town ordinances, and the owner, operator, or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(e) Garbage storage and disposal. Every dwelling and every dwelling unit shall be supplied with approved garbage disposal facilities, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by Town ordinances. (Ord. of 5/5/87)

Section 8.62 Minimum standards applicable to rooming houses; exceptions.

All of the provisions of this ordinance, and all of the minimum standards and requirements of this ordinance, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following paragraphs:

(1) Water closet, hand lavatory and bath facilities. At least one (1) water closet, lavatory basin, and bathtub or shower, property connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passage-

way and shall be not more than one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(2) Minimum floor area for sleeping purposes. Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(3) Sanitary conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within the rooming house is contained is leased or occupied by the operator.

(4) Sanitary facilities. Every water closet, flush urinal, lavatory basin, and bathtub or shower required by paragraph (1) of this Section shall be located within the rooming house and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the rooming house or through any other room therein. (Ord. of 5/5/87)

Section 8.63 Responsibilities of owners and occupants.

(a) Public areas. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.

(c) Rubbish and garbage. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner

by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(d) Supplied plumbing fixtures. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(e) Care of facilities, equipment, and structure. No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit. (Ord. of 5/5/87)

(Note: The respective responsibilities of landlords and tenants under rental agreements for dwelling units are further enumerated in State Law, G.S. Chapter 42, Article 5.)

Section 8.64 Powers and duties of housing inspector.

The housing inspector is hereby designated as the officer to enforce the provisions of this ordinance and to exercise the duties and powers herein prescribed. The housing inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this ordinance. The housing inspector shall have the following powers and duties:

(1) To investigate the dwelling conditions, to inspect dwellings and dwelling units located in the Town, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this ordinance with respect to the repair, closing, or demolition of such dwellings and dwelling units.

(2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is determined;

(3) To keep a record of the results of inspections made under this ordinance and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;

(4) To administer oaths and affirmations, examine witnesses, and receive evidence;

(5) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with Section 8.65 of this ordinance and State Law, and shall be made in such a manner as to cause the least possible inconvenience to the persons in possession;

(6) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this ordinance, and to delegate any of his functions and powers to such officers, agents, and employees;

(7) To perform such other duties as may be prescribed herein or by the Board of Commissioners. (Ord. of 5/5/87)

Section 8.65 Inspection; duty of owners and occupants.

(a) For the purpose of making inspections, the inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units, and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house or rooming unit, or the person in charge thereof, shall give the inspector free access to such dwellings, dwelling unit, rooming house, or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination, and survey.

(b) Every occupant of a dwelling, dwelling unit, rooming house, or rooming unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling, dwelling unit, and its premises at all reasonable times for the purposes of making such repairs or alterations as are necessary to effect compliance with the provisions of this ordinance or with any lawful order issued pursuant to the provisions of this ordinance. (Ord. of 5/5/87)

(Note: When permission to inspect a dwelling or its premises is denied, the Housing Inspector must obtain a warrant to inspect. G.S. 15-27.2 provides for the issuance of warrants for the conduct of inspections authorized by law. The N.C. Court of Appeals, in In Re Dwelling, 24 N.C. App 17 (1974), has held that the consent of the tenant-occupant who was in actual possession and control of the premises was sufficient to authorize an inspection without a warrant, notwithstanding the fact that the owner had

objected to the warrantless search. When faced with a situation where permission to inspect is denied, building inspectors are advised to seek the advice of the city or town attorney.)

Section 8.66 Procedure for enforcement.

(a) Preliminary investigation; notice; hearing. Whenever a petition is filed with the inspector by a public authority or by at least five (5) residents of the Town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner or any parties in interest in such dwelling or dwelling unit, a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

(b) Procedure after hearing. After such notice and hearing, the inspector shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

(1) If the inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this ordinance within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alteration, and improvements have been made.

(2) If the inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this ordinance, or else to vacate and remove or demolish the same within a specified period of time not to exceed ninety (90) days.

(c) Failure to comply with order.

(1) In personam remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the inspector to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the inspector to repair, alter, or improve or to vacate and close and remove or demolish the same within the time specified therein, the inspector shall submit to the board of commissioners at its next regular meeting a resolution directing the Town attorney to petition the superior court for an order directing such owner to comply with the order of the inspector, as authorized by G.S. 160A-446 (g).

(2) In rem remedy. After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the inspector within the time specified therein, if injunction relief has not been sought or has not been granted as provided in the preceding paragraph (1), the inspector shall submit to the board of commissioners an ordinance ordering the inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the inspector, and pending removal or demolition, to place a placard on such dwelling as provided by G.S. 160A-443 and Section 8.68 of this ordinance.

(d) Appeals from orders of inspector. An appeal from any decision or order of the inspector may be taken by any person aggrieved thereby. Any appeal from the inspector shall be taken within ten (10) days from the rendering of the decision or service of the order, and shall be taken by filing with the inspector and with the zoning board of adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the

board of adjustment all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board of adjustment, unless the inspector certifies to the board of adjustment, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of this requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order. Such a restraining order may be granted for due cause shown upon not less than one (1) day's written notice to the inspector, by the board of adjustment, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection (e) of this Section.

(1) The board of adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of four-fifths (4/5) of the members of the board shall be necessary to reverse or modify any decision or order of the inspector. The board shall have the power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(2) Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the board, but not otherwise.

(e) Petition to superior court by owner. Any person aggrieved by an order issued by the inspector or a decision rendered by the board shall have the right, within thirty (30) days after issuance of the

order of rendering of the decision, to petition the superior court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by G.S. 160A-446(f). (Ord. of 5/5/87)

Section 8.67 Methods of service of complaints and orders.

Complaints or orders issued by the inspector shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such person are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to the effect, and the serving of such complaint or order upon such person may be made by publishing the same at least once no later than the time at which personal service would be required under the provisions of this ordinance in a newspaper having general circulation in the Town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order. (Ord. of 5/5/87)

Section 8.68 In rem action by inspector; placarding.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this ordinance, and upon adoption by the board of commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443 (5) and Section 8.66 (c) of this ordinance, the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this ordinance, or to be vacated and closed and removed or demolished, as directed by the ordinance of the board of commissioners, and shall cause to be posted on the main entrance of such dwelling or dwelling unit 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 misdemeanor.

(b) Each such ordinance shall be recorded in the office of the register of deeds in Caldwell County, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443 (5). (Ord. of 5/5/87)

Section 8.69 Costs, a lien on premises.

As provided by G.S. 160A-446 (6) the cost of any repairs, alterations, or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the inspector pursuant to Section 8.68 of this ordinance shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have priority, and be collected in the same manner as the lien for special assessments established by Article 10, Chapter 160A of the General Statutes. (Ord. of 5/5/87)

Section 8.70 Alternative remedies.

Neither this ordinance nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this ordinance by criminal process as authorized by G.S. 14-4 and Section 8.72 of this ordinance, and the enforcement of any remedy herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. (Ord. of 5/5/87)

Section 8.71 Board of adjustment to act as housing appeals board.

The board of adjustment is hereby authorized to act in the capacity of the housing appeals board. The board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure, and to adopt other rules and regulations for the proper discharge of its duties. The board shall perform the duties prescribed by Section 8.66 (d) and shall keep accurate record of all its proceedings. (Ord. of 5/5/87)

Section 8.72 Conflict with other provisions.

In the event any provision, standard, or requirement of this ordinance is found to be in conflict with any provision of any other ordinance or code of the Town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection and safety of the residents of the Town shall prevail. (Ord. of 5/5/87)

Section 8.73 Violations; penalty.

(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to

repair, alter, or improve the same, or to vacate and close and remove or demolish the same, under order of the inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.

(b) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to Section 8.66 of this ordinance, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(c) The violation of any provision of this ordinance shall constitute a misdemeanor, as provided by G.S. 14-4.

(d) In addition to the penalty established by subsection (c) above, and the remedies provided by other provisions of this ordinance, this ordinance may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction. (Ord. of 5/5/87)