

CHAPTER 5: BUILDINGS AND BUILDING REGULATIONS

Article

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Notes

- ¹ Cross-reference:
Adoption of technical codes, § 2-211; Fire Protection and Prevention, Ch. 10; Fire limits, § 10-401; debris from new construction, § 11-108(E); Fair Housing, §§ 13-201 et seq.; construction except between the hours of 7:00 a.m. and 6:00 p.m. on weekdays prohibited, § 14-202(I); Planning, Zoning, and Subdivision Control, Ch. 17; house moving, § 19-206; construction near sidewalk, § 19-304; Utilities, Ch. 21.
- Statutory reference:
State Building Code, G.S. § 143-138, Ch. 160D.

ARTICLE I: GENERAL PROVISIONS

Section

- 5-101 Building code adopted
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§ 5-101 BUILDING CODE ADOPTED.

The current edition of the *State Building Code*, as adopted and periodically amended by the State Building Code Council, is hereby adopted by reference as fully as though set forth in this section as the building code of the town, and its extraterritorial jurisdiction.

(Code 1976, § 8.2)

§ 5-102 COMPLIANCE WITH CODES.

All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, maintained, used, occupied, removed, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of the *State Building Code*.

(Code 1976, § 8.8)

§ 5-103 COPIES OF CODES FILED WITH THE COUNTY BUILDING INSPECTOR.

(A) An official copy of the *State Building Code*, and all amendments thereto, shall be kept on file in the office of the County Building Inspector.

(B) Should the town elect to conduct building inspections instead of contracting with the county for such services, then a copy of the *State Building Code* shall be kept on file in the office of the Town Building Inspector instead.

(C) Such copy shall be the official copy of the *State Building Code*.

(Code 1976, § 8.9)

§ 5-104 INSPECTION SERVICES.

(A) The town may contract with the county for building inspection services and enforcement of the town's building code.

(B) If the town contracts with the county, as provided in subsection (A) above, then, for the purposes of this article, the County Building Inspection Department shall be deemed the Building Inspection Department of the town.

Cross-reference:

Permit fees, § 5-209.

§ 5-105 TO 5-199 RESERVED.

ARTICLE II: BUILDING PERMITS AND INSPECTIONS

Section

- 5-201 Required
- 5-202 Application
- 5-203 Plans and specifications
- 5-204 Limitation on issuance of permits
- 5-205 Issuance of permits
- 5-206 Stop work orders and revocation of permits
- 5-207 Time limitation on validity of permits
- 5-208 Changes in work
- 5-209 Permit fees
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- 5-212 to 5-299 Reserved

Cross-reference:

Planning, Zoning, and Subdivision Control, Ch. 17.

Statutory reference:

Permits, G.S. Chapter 160D.

§ 5-201 REQUIRED.

(A) *Building permit.* No person shall commence, or proceed, with the construction, reconstruction, alteration, repair, removal, or demolition of any building, or other structure, or any part thereof, without first securing from the Building Inspector any, and all, permits required by the *State Building Code*, and any other state or local laws applicable to the work.

(B) *Exceptions.*

(1) No building permit shall be required under the *State Building Code* for any construction, installation, repair, replacement, or alteration costing \$5,000 or less in any single-family residence or farm building unless the work involves: The addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same capacity) or change in the design of plumbing; the addition, replacement, or change in the design of heating, air conditioning, or electrical wiring, devices, fixtures (excluding repair or replacement of electrical lighting devices and fixtures of the same type), appliances (excluding replacement of water heaters; provided, that the energy use rate or thermal input is not greater than that of the water heater which is being replaced, and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping), or equipment, the use of materials not permitted by the *State Uniform Residential Building Code*; or the addition (excluding replacement of like grade or fire resistance) of roofing. The exclusions from building permit requirements set forth in this subsection (B) for electrical lighting devices and fixtures, and water heaters, shall apply only to work performed on a one- or two-family dwelling. In addition, exclusions for electrical lighting devices and fixtures, and electric water heaters, shall apply only to work performed by a person licensed under G.S. § 87-43, and exclusions for water heaters, generally, to work performed by a person licensed under G.S. § 87-21.

(2) In any one- or two-family dwelling unit, a permit shall not be required for the connection of a water heater that is being replaced; provided, that the work is performed by a person licensed under G.S. § 87-21, who personally examines the work at completion, and ensures that a leak test has been performed on the gas piping; and, provided, the energy use rate, or thermal input, is not greater than that of the water heater which is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the *State Building Code*.

(3) In any one- or two-family dwelling unit, a permit shall not be required for repair, or replacement, of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced; provided, that all of the following requirements are met:

(a) With respect to electric water heaters, the replacement water heater is placed in the same location, and is of the same, or less, capacity and electrical rating as the original;

(b) With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same, or less, amperage;

(c) The work is performed by a person licensed under G.S. § 87-83; and

(d) The repair, or replacement, installation meets the current edition of the *State Building Code*, including the *State Electrical Code*.

(4) A permit shall not be required for any other work, or project, exempted from permitting requirements by the *State Building Code*.

(C) *Demolition bond*. In all cases of removal, or demolition, of a building, or structure, a good and sufficient bond in the sum of \$1,000 shall be posted by the property owner, or by his or her contractor, at the time of application for a permit, to ensure complete removal, or demolition, including all rubble and debris. Failure on the part of the property owner, or his or her contractor, to completely demolish, remove, and clear the premises, after 30 days' notice by the Building Inspector, shall be cause for forfeiture of such bond.

(Code 1976, § 8.19)

Cross-reference:

Inspection services, § 5-104; water system, §§ 21-201 et seq.; sewer system, §§ 21-301 et seq.; electric power system, §§ 21-401 et seq.

§ 5-202 APPLICATION.

(A) Application for a building permit shall be made to the County Building Inspections Department.

(B) (1) Any individual, or business, seeking a building permit shall secure all necessary zoning and subdivision approvals from the town before applying for a building permit.

(2) Any individual, or business, seeking a building permit shall demonstrate compliance with §21-315, "Grease traps/interceptors", before, or at the time, application is made for a building permit.

(C) The Building Inspector shall not accept any application for a building permit until he or she is satisfied that all zoning and subdivision requirements have been met, and that building, or structure, for which a building permit is sought complies with § 21-315.

(D) Written application shall be made for all permits required by this article, and shall be made on forms provided by the Inspection Department. Such application shall be made by the owner of the building, or structure, affected, or by his or her authorized agent or representative, and, in addition to such other information, as may be required by the appropriate inspector to enable him or her to determine whether the permit applied for should be issued, shall show the following:

(1) Name, residence, and business address of owner;

(2) Name, residence, and business of the authorized representative, or agent, if any; and

(3) Name, and address, of the contractor, if any, together with evidence that he or she has obtained a certificate from the appropriate state licensing board for such contractors, if such be required for the work involved in the permit for which such application is made.

(Code 1976, § 8.20)

Cross-reference:

Zoning and Subdivision Regulations, Ch. 17.

§ 5-203 PLANS AND SPECIFICATIONS.

Nothing in this article shall require the town to review, and approve, residential building plans submitted to the town pursuant to § R-110 of Volume VII of the *State Building Code*; provided, that the town may review, and approve, such residential building plans as it deems necessary. 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, the *State Building Code*, or any ordinance requires 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 state seal of a registered architect, or of a registered engineer. When any provision of the general statutes, the *State Building Code*, or 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.

(Code 1976, § 8.21)

Statutory reference:

Certain buildings involving public funds to be designed by architect or engineer, G.S. § 133-1.1.

§ 5-204 LIMITATION ON ISSUANCE OF PERMITS.

(A) No building permit shall be issued for any building, or structure, the estimated total cost of which is more than \$30,000, unless the work is to be performed by a licensed general contractor.

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

(C) Pursuant to G.S. § 83A-13, nothing in this article shall be construed to require plans sealed by an architect where the building, or structure, to be permitted meets one of the following exceptions:

(1) A family residence, up to eight units attached with grade level exit, which is not a part of, or physically connected with, any other buildings or residential units;

(2) A building upon any farm for the use of any farmer, unless the building is of such nature, and intended for such use, as to substantially involve the health, or safety, of the public;

(3) An institutional, or commercial, building if it does not have a total value exceeding \$90,000;

(4) An institutional, or commercial, building if the total building area does not exceed 2,500 square feet in gross floor area;

(5) Alteration, remodeling, or renovation of an existing building that is exempt under this section, or alteration, remodeling, or renovation of an existing building, or building site, that does not alter, or affect, the structural system of the building; change the building's access or exit pattern; or change the live, or dead, load on the building's structural system; or

(6) The preparation, and use, of details and shop drawings, assembly, or erection drawings, or graphic descriptions utilized to detail, or illustrate, a portion of the work required to construct the project in accordance with the plans, and specifications, prepared, or to be prepared, under the requirements, or exemptions, of G.S. Chapter 83A.

(Code 1976, § 8.22)

§ 5-205 ISSUANCE OF PERMITS.

When proper application for a permit has been made, and the Building Inspector is satisfied that the application, and the proposed work, comply with the provisions of this article and the *State Building Code*, he or she shall issue such permit upon payment of the proper fee, or fees, as provided in § 5-209.

(Code 1976, § 8.23)

§ 5-206 STOP WORK ORDERS AND REVOCATION OF PERMITS.

(A) (1) Whenever any building, or structure, or part thereof, is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner; in substantial violation of any state or local building law, including the zoning provisions of this code; or in a manner that endangers life or property, the Building Inspector may order the specific part of the work that is in violation, or presents such a hazard, to be immediately stopped.

(2) 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. Stop work orders may be appealed to the State Commissioner of Insurance, or the Town Board of Adjustment, as appropriate, in accordance with G.S. Chapter 160D.

(B) The Building Inspector may revoke, and require the return of, any permit by notifying the permit holder, in writing, stating the reason for such revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal, or failure, to comply with proper orders of the inspector; for refusal, or failure, to comply with requirements of this article, or the *State Building Code*; or for false statements, or misrepresentations, made in securing such permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(Code 1976, § 8.24)

Statutory reference:

Similar provisions, G.S. Chapter 160D.

§ 5-207 TIME LIMITATIONS ON VALIDITY OF PERMITS.

All permits issued under this article shall expire by limitation six months 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 12 months, the permit shall immediately expire. No work authorized by any permit which has expired shall, thereafter, be performed until a new permit has been secured.

(Code 1976, § 8.25)

Statutory reference:

Similar provisions, G.S. Chapter 160D.

§ 5-208 CHANGES IN WORK.

After a permit has been issued, no changes, or deviations, from the terms of the application, plans, or 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.

(Code 1976, § 8.26)

Statutory reference:

Similar provisions, G.S. Chapter 160D.

§ 5-209 PERMIT FEES.

Fees for permits shall be based upon the current county fee schedule at the time the application is received. The current schedule of fees is located in the office of the County Building Inspector.

(Code 1976, § 8.27)

§ 5-210 ENFORCEMENT.

(A) Every building that 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 the building.

(B) (1) If the owner of a building, or structure, that has been condemned as unsafe, pursuant to subsection (A) above and G.S. Chapter 160D, shall fail to take prompt, corrective action, the Inspector shall give him or her written notice, by certified or registered mail to his or her last known address, or by personal service:

(a) That the building, or structure, is in a condition that appears to meet one, or more, of the following conditions:

1. Constitutes a fire, or safety, hazard;
2. Is dangerous to life, health, or other property;
3. Is likely to cause, or contribute, to blight, disease, vagrancy, or danger to children; or

(b) 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 matter; and

(c) Following the hearing, the Inspector may issue such order to repair, close, vacate, or demolish the building, or structure, as appears appropriate.

(2) 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 ten 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.

(C) If, upon a hearing held pursuant to the notice prescribed in subsection (B) above and G.S. Chapter 160D, 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 or she shall make an order, in writing, directed 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 60 days, as the Inspector may prescribe; provided, that where the Inspector finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) Whenever any violation is denominated a misdemeanor under the provisions of G.S. Chapter 160D, 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.

(E) (1) In the case of a building, or structure, declared unsafe under subsection (A) above and G.S. Chapter 160D, or an ordinance adopted pursuant to subsection (A) above and G.S. Chapter 160D, the town may, in lieu of taking action under subsection (D) above, cause the building, or structure, to be removed or demolished.

(2) The amounts incurred by the town in connection with the removal, or demolition, shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in G.S. Chapter 160A, Article 10.

(3) If the building, or structure, is removed, or demolished, by the town, the town shall sell the usable materials of the building, and any personal property, fixtures, or appurtenances found in, or attached to, the building. The town shall credit the proceeds of the sale against the cost of the removal, or demolition. Any balance remaining from the sale shall be deposited with the Clerk of the County Superior Court of the county where the property is located, and shall be disbursed by the Court to the person found to be entitled thereto by final order, or decree, of the Court.

(4) The amounts incurred by the town in connection with the removal, or demolition, shall also be a lien against any other real property owned by the owner of the building, or structure, and located within the town limits or within one mile of the town limits, except for the owner's primary residence. The provisions of subsections (E)(2) and (E)(3) above apply to this additional lien, except that this additional lien is inferior to all prior liens, and shall be collected as a money judgment.

(F) If the owner of a building, or structure, fails to comply with an order issued, pursuant to subsection (C) above and G.S. Chapter 160D, from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he or she shall be guilty of a Class 1 misdemeanor, in accordance with G.S. Chapter 160D.

(G) If any person shall remove any notice that has been affixed to any building, or structure, by the Inspector that states the dangerous character of the building, or structure, he or she shall be guilty of a Class 1 misdemeanor.

Penalty, see § 1-111

Cross-reference:

Misdemeanors, § 5-210(F) and (G); appeals, § 5-211; equitable actions, § 5-210(D).

Statutory reference:

Enforcement, G.S. Chapter 160D.

§ 5-211 APPEALS.

(A) Any owner who has received an order under §5-210(C) and G.S. Chapter 160D may appeal from the order to the Town Council 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 of the Inspector shall be final. The Town Council shall hear, and render, a decision in an appeal within a reasonable time. The Town Council may affirm, modify and affirm, or revoke the order.

(B) Unless otherwise provided by law, appeals from any order, decision, or determination by a member of the Inspection Department pertaining to the *State Building Code*, or other state building laws, shall be taken to the Commissioner of Insurance, or his or her designee, or other official specified in G.S. § 143-139, by filing a written notice with him or her, and with the Inspection Department within a period of ten days after the order, decision, or determination. The Inspector shall forward a copy of any such appeals to the Town Clerk. Further appeals may be taken to the State Building Code Council, or to the courts, as provided by law.

Statutory reference:

Appeals in general, G.S. Chapter 160D.

§§ 5-212 TO 5-299 RESERVED.

ARTICLE III: ENERGY CONSERVATION STANDARDS

[Repealed]

Statutory reference:

Building code insulation and energy utilization standards, G.S. §§ 143-144 et seq.

ARTICLE IV: MINIMUM HOUSING STANDARDS

Section

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Statutory reference:

Municipal housing standards authorized, G.S. §§ 160A-441 et seq.

§ 5-401 DEFINITIONS.

(A) For the purpose of this article, the following definitions shall apply unless the context clearly indicates, or requires, a different meaning.

ACCESSORY BUILDING or OUTHOUSE. A building, or structure, the use of which is incidental to that of the main building, or structure, and which is located on the same lot, or a contiguous lot.

ALTER OR ALTERATION. Any change, or modification, in construction or occupancy.

BASEMENT. A portion of a building located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

BUILDING. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. The term **BUILDING** shall be construed as if followed by the words "or part thereof".

CELLAR. A portion of a building 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.

CODE/BUILDING OFFICIAL. The official, or other person, charged with the administration, and enforcement, of this article, or duly authorized representative.

DWELLING. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation, or intended to be so used, and includes any outhouses and appurtenances belonging thereto, or usually enjoyed therewith, except that it does not include any temporary dwelling, or any manufactured home or mobile home, which is used solely for a seasonal vacation purpose. **MANUFACTURED HOME or MOBILE HOME** means a structure as defined in G.S. § 143-145(7).

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.

EXIT. A clear and unobstructed way of departure from the interior of a building, or structure, to the exterior at street, or grade, level.

EXTERMINATION. The control, and elimination, of insects, rodents, or other pests by eliminating their harborage places; by removing, or making inaccessible, materials that may serve as their food, by poisoning, spraying, fumigating,

trapping, or by any other recognized, and legal, pest elimination methods approved by the Code Official.

FLOOR AREA. The total area of all habitable space in a building, or structure.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

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, and laundries.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents, or other pests.

MULTIPLE DWELLING. Any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home, or residence, of more than two families living independently of each other, and doing their own cooking in the building, and shall include **FLATS** and **APARTMENTS**.

OCCUPANT. Any person over one year of age living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

OPENABLE AREA. The part of a window, porch, or door which is available for unobstructed ventilation, and which opens directly to the outdoors.

OPERATOR. Any person who has the charge, care, or control of a building, or part thereof, in which dwelling units, or rooming units, are let.

OWNER. Any person who, alone or jointly, or severally with others:

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

(b) Has the charge, care, or control of any dwelling, or dwelling unit, as owner, or agent of the owner, or as executor, administrator, trustee, or guardian of the estate of the **OWNER**. Any such person thus representing the actual **OWNER** shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she is the **OWNER**.

PARTIES IN INTEREST. All individuals, associations, and corporations who have interest of record in a dwelling, and any who are in possession thereof.

PLUMBING. Includes all of the following supplied facilities and equipment: Gas pipes; gas-burning equipment; water pipes; mechanical garbage disposal units (mechanical sink grinder); waste pipes; water closets; sinks; installed dishwashers; lavatories; bathtubs; shower baths; installed clothes washing machines; catch basins; drains; vents; and any other similar supply fixtures, together with all connections to water, sewer, or gas lines.

PREMISES. A lot, plat, or parcel of land, including the buildings, or structures, thereon.

PUBLIC AUTHORITY. Any housing authority, or any official in charge of any department or branch of the government of the town, the county, or the state relating to health, fire, or building regulations, or to other activities concerning housing in the town.

REMOVAL. The demolition, and removal, of the entire building, leaving the premises free and clear of any debris; any excavation properly filled in, and with no holes or pockets which retain water.

ROOMING/BOARDING HOUSE. Any dwelling, or part of any dwelling, containing one, or more, rooming units, in which space is let by the owner or operator to two, or more, persons, who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

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.

RUBBISH. Combustible, or noncombustible, waste materials, except garbage, including, but not limited to, the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust, and discarded appliances.

STORY. The part of a building between one floor and the floor, or roof, next above.

STRUCTURE. That which is built, or constructed, an edifice or building of any kind, or any piece of work artificially built up, or composed of parts joined together in some definite manner. The term **STRUCTURE** shall be construed as if followed by the words "or part thereof".

SUBSTANDARD. Any condition existing in any housing, or structure, which does not meet the standards of fitness of this article.

SUPPLIED. Paid for, furnished, or provided by, or under the contract of, the owner or operator.

TEMPORARY HOUSING. Any tent, trailer, or other structure used for human shelter which is designed to be transportable (for example, a motor home), and which is not attached to the ground, to another structure, or to any utilities system on the same premises legally for more than 60 consecutive days.

UNFIT FOR HUMAN HABITATION. Conditions exist in a dwelling which violate, or do not comply with, one, or more, of

the minimum standards of fitness established by this article.

VENTILATION. The insufflation and the exsufflation of air by natural means to, and from, housing.

VENTILATION, MECHANICAL. Ventilation by power-driven devices.

VENTILATION, NATURAL. Ventilation by opening to outer air through windows, sky-lights, doors, louvers, or stacks with, or without, wind-driven devices.

(B) Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, and “premises” are used in this article, they shall be construed as though followed by the words “or any part thereof”.

(Ord. 21-2018, passed 12-3-2018)

§ 5-402 FINDINGS; PURPOSE.

The Town Council finds, and declares, that there now exists, in the town and its one-mile jurisdiction, and may reasonably be expected to exist in the future, housing which is unfit for human habitation because of dilapidation; defects increasing the hazards of fire, accidents, or other calamities; lack of ventilation, adequate lighting, or sanitary facilities; or because of conditions rendering such housing unsafe or unsanitary, or dangerous or detrimental to the health, safety, or morals, or otherwise inimical, to the welfare of the residents of the town and its area of jurisdiction; and that a public necessity exists to exercise police powers of the town, pursuant to G.S. Chapter 160A, Article 19, and other applicable laws, as now, or hereafter, amended, to cause the repair and rehabilitation, closing, or demolishing of such housing in the manner provided in this article; and pursuant to the exercise for the police power, the Town Council finds as fact, and so declares, that the ensuing sections of this article are necessary to the implementation of its purposes hereinabove declared in this section, and that, specifically, but without limitation, the minimum standards of fitness for dwellings and dwelling units, as enacted in this article, are reasonable and necessary for this community, and are all reasonable and necessary criteria for determining whether dwellings and dwelling units in this town are fit for human habitation.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Similar provisions, G.S. Chapter 160D.

§ 5-403 CONFLICTS.

The provisions of this article shall not be construed to conflict with any other applicable laws, codes, or ordinances pertaining to housing, but are supplemental thereto, and where the provisions of this article are similar to provisions of other applicable codes or ordinances, the more stringent provisions shall apply.

(Ord. 21-2018, passed 12-3-2018)

§ 5-404 SCOPE.

(A) Every building used in whole, or in part, as a dwelling unit, or as two, or more, dwelling units, or as a rooming house, or boardinghouse, shall conform to the requirements of this article irrespective of the primary use of such building, and irrespective of when such building may have been constructed, altered, or repaired.

(B) This article establishes minimum standards for occupancy, and does not replace, or modify, standards otherwise established for construction, replacement, or repair of buildings, except such as are contrary to the provisions of this article.

(C) In addition to the exercise of police power authorized in this article, with respect to dwellings, the town shall cause to be repaired, closed, or demolished any abandoned structure which the Town Council finds to be a health, or safety, hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous condition constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. The repair, closing, or demolition of such structures shall be pursuant to the same provisions, and procedures, as are prescribed in this article for the repair, closing, or demolition of dwelling found to be unfit for human habitation.

(Ord. 21-2018, passed 12-3-2018)

§ 5-405 ALTERNATIVE REMEDIES.

Neither this article, 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 article by criminal process, or otherwise, and the enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedy, or remedies, provided in this code, or in other ordinances or laws.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Similar provisions, G.S. Chapter 160D.

§ 5-406 RIGHT OF ACCESS.

(A) For the purpose of making inspections, the Code Official is hereby authorized to enter, examine, and survey, at all reasonable times, all dwellings, dwelling units, rooming units, and premises. The owner, or occupant, of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the Official free access to such dwelling, dwelling unit, 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, or dwelling unit, shall give the owner thereof, or agent or employee, access to any part of such dwelling, or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs, or alterations, as are necessary to effect compliance with the provisions of this article, or with any lawful order issued pursuant to the provisions of this chapter.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Power to inspect, G.S. Chapter 160D.

§ 5-407 METHODS OF SERVICES OF COMPLAINTS AND ORDERS.

Complaints, or orders, issued by the Code Official shall be served upon persons either personally, or by registered or certified mail, but if the whereabouts of such persons are unknown, and the same cannot be ascertained by the Official, he or she shall make an affidavit to that effect, and the serving of such complaint, or order, upon such person may be made by publishing the same once each week for two successive weeks in a newspaper, printed and published 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. 21-2018, passed 12-3-2018)

§ 5-408 COMPLIANCE.

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 requirements of this article. No person shall occupy, as a human habitation, any dwelling, or dwelling unit, which does not comply with all of the requirements of this article.

(Ord. 21-2018, passed 12-3-2018)

§ 5-409 SPACE USE.

The minimum standards for space use are as follows:

(A) A principal area shall have not less than 150 square feet;

(B) A kitchen-dining room combination, if any, shall have not less than 100 square feet;

(C) A first bedroom, if any, shall have not less than 100 square feet;

(D) A second bedroom, if any, shall have not less than 70 square feet;

(E) Each habitable room shall have at least 70 square feet;

(F) At least 150 square feet of floor space in habitable rooms shall be provided for the first occupant in each dwelling unit; at least 100 square feet of additional floor space shall be provided for each of the next three occupants; and at least 75 square feet of additional floor space shall be provided for each additional occupant over the number of four (children one year of age and under shall not be counted);

(G) At least 70 square feet of bedroom floor space shall be provided for the first occupant; at least 20 square feet of additional bedroom floor space shall be provided for the second occupant; and at least 30 square feet of additional bedroom floor space shall be provided for each occupant over the number of two (children one year of age and under shall not be counted);

(H) Habitable rooms which must be included to meet the foregoing minimum space standards shall be at least seven feet wide in any part with at least one-half of the floor area having a ceiling height of at least seven feet. The portion of any room where the ceiling height is less than five feet shall not be considered as part of the floor area;

(I) No basement space shall be used as a habitable room, or dwelling unit, unless:

(1) The floor and walls are impervious to leakage of underground and surface runoff water, and are insulated against dampness;

(2) The total of window area in each room is equal to at least the window area sizes prescribed in the following section for habitable rooms; or

(3) The total of openable window area in each room is equal to at least the room area prescribed in the following section for habitable rooms, except where there is supplied some other device affording adequate ventilation approved by the Director of Inspections.

(J) Toilet and bathing facilities shall be structurally enclosed, and shall be located so as not to require passage through an openable area;

(K) Bathroom walls, toilet room walls, and bedroom walls shall have no holes, or excessive cracks;

(L) Access shall be provided to all rooms within a dwelling unit without passing through a public space, or another dwelling unit;

(M) Doors shall be provided at all doorways leading to bedrooms, toilet rooms, bathrooms, and at all rooms adjoining a public space;

(N) Each living unit shall have a specific kitchen space, which contains a sink with counter workspace, and has hot and cold running water, and adequate space for storing cooking utensils; and

(O) Electric, water, and sewer must be in working order.

(Ord. 21-2018, passed 12-3-2018)

§ 5-410 LIGHT AND VENTILATION.

The minimum standards for light and ventilation are as follows:

(A) 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 8% of the floor area of such room. Whenever walls, or other portions, of structures face a window of any such room, and such light obstruction structures are located less than five feet from the window, and extend to a level above that of the ceiling of the room, they 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 15% of the total floor area of such room;

(B) Every room in a dwelling unit, and means of egress, shall be sufficiently illuminated so as to provide safe, and satisfactory, uses;

(C) Year-round mechanically ventilating systems may be substituted for windows, as required herein, but must be approved by the Code Official in rooms other than rooms used for sleeping purposes;

(D) All outside windows and doors used for ventilation shall be screened;

(E) All windows and doors shall be made weather-tight;

(F) Windows and doors shall have no broken glass, and shall have adequate operable locks and hardware;

(G) Openable window area in each toilet room shall be at least two square feet, unless served by mechanical ventilation;

(H) Natural ventilation of spaces, such as attics and enclosed non-basement space, shall be provided by openings of sufficient size to overcome dampness, and to minimize the effect of conditions conducive to decay and deterioration of the structure, and to prevent excessive heat in attics;

(I) Utility spaces containing heat-producing, air-conditioning, and other equipment shall be ventilated according to the manufacturer's requirements; and

(J) Mechanical ventilation shall be of sufficient size to eliminate dampness and odors of the area it is serving.

(Ord. 21-2018, passed 12-3-2018)

§ 5-411 EXITS.

(A) Two main exits, each at least 30 inches wide, and six feet and eight inches high, easily accessible to the occupants of each housing unit, shall be provided, unless a single exit is permitted as an exception by provisions of the *State Building Code*, as from time to time amended. All exit doors shall be easily operable.

(B) Platforms, steps, and/or handrails shall be provided to serve exits, and maintained in a safe condition.

(Ord. 21-2018, passed 12-3-2018)

§ 5-412 PLUMBING.

The minimum plumbing standards are as follows:

(A) The plumbing systems shall be connected to the town sanitary sewer system, where available; otherwise, the plumbing system shall be connected onto an approved septic tank;

(B) All plumbing fixtures shall meet the standards of the Town Plumbing Code, and shall be maintained in a state of good repair and in good working order;

(C) There shall be provided a hot water heater (minimum 30-gallon capacity) furnishing hot water to each tub or shower, lavatory, and kitchen sink;

(D) Installed water supply inside the building shall be provided for each housing unit;

(E) Installed water closet, tub or shower, lavatory, and sink shall be provided for each dwelling unit;

- (F) Separate toilet facilities shall be provided for each dwelling unit;
- (G) Toilet and bathing facilities shall be structurally protected from the weather;
- (H) All water piping shall be protected from freezing by proper installation in protected space;
- (I) At least one main vent of a minimum diameter of two inches shall be properly installed for each building; and
- (J) Sewer and water lines shall be properly supported with no broken or leaking lines.

(Ord. 21-2018, passed 12-3-2018)

§ 5-413 HEATING.

The minimum heating standards are as follows:

(A) *[Reserved]*;

(B) Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe, and good, working condition, and are capable of safely, and adequately, heating all habitable rooms and bathrooms in every dwelling unit located therein to a temperature of at least 68F at a distance three feet above floor level, under ordinary minimum winter conditions;

(C) All gas-heating and oil-heating equipment installed on the premises shall be of a type approved by the Underwriters' Laboratories, or by the American Gas Association, and shall be installed in accordance with the provisions of the *State Building Code*;

(D) Liquid fuel stored on the premises shall be stored in accordance with the provisions of the National Fire Prevention Association standards;

(E) Chimneys and fireplaces shall have no loose bricks;

(F) Flues shall have no holes;

(G) There shall be no hanging masonry chimneys;

(H) Thimbles shall be grouted in tight;

(I) Thimbles shall be installed high enough for stovepipe to rise one-fourth inch per foot minimum;

(J) Hearths shall be at least 20 inches deep, and seven inches beyond each side of the fireplace opening;

(K) No combustible materials shall be within seven inches beyond each side of the fireplace opening;

(L) If the fireplace opening is closed because of hazardous conditions, the closure shall be of masonry, or other approved material, as determined by the Code Official;

(M) Any stove shall be within six feet of the thimble serving it;

(N) Stovepipes and vents shall comply with volume three of the *State Building Code*; and

(O) No unvented combustible space heaters shall be used.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Related provisions, G.S. § 136-138.

§ 5-414 ELECTRICITY.

The minimum electrical standards are as follows:

(A) Every dwelling, and dwelling unit, shall be wired for electric lights and convenience receptacles, which shall be connected in such manner as determined by the *National Electric Code*, as adopted by the town;

(B) No receptacles, ceiling fixtures, or other fixtures shall be broken or hanging loose;

(C) All toggle switches and fixtures shall be safely operable;

(D) At least two duplex convenience outlets, as remote from each other as practicable, shall be provided per habitable room;

(E) At least one light outlet in each bathroom, hall, kitchen, and porch, and over exterior steps to the second floor, shall be provided;

(F) There shall be no bare wires, open joints, or spliced cables;

(G) Flexible cords shall not be used as a substitute for the fixed wiring of a structure, nor shall flexible cords be run through holes in walls, ceilings, or floors, through doorways, windows, or similar openings, or be attached to building

surfaces, or concealed behind building walls, ceilings, or floors;

(H) No branch circuits shall be overloaded;

(I) A minimum of three branch circuits, plus separate circuits for each fixed appliance, shall be provided in each dwelling unit;

(J) There shall be provided service equipment and a lighting panel of adequate capacity and size (minimum of 60-ampere capacity) to accommodate the existing, or the required, number of branch circuits, and the equipment shall be properly grounded;

(K) Outlets in kitchens and bathrooms shall be ground-fault interrupter device protected;

(L) All residences shall have a smoke detector on each livable floor. The property owner shall be responsible for installing a fresh battery with change in tenants; the tenant shall be responsible for maintaining the unit, and shall not commit any act that shall render the unit inactive; and

(M) All rental dwelling units having a fossil fuel burning heater or appliance, or fireplace shall provide a minimum of one operable carbon monoxide detector per unit per level. A carbon monoxide detector is also required for an attached garage. The landlord shall install, replace, or repair the carbon monoxide monitor(s), unless the landlord and tenant have a written agreement to the contrary.

(Ord. 21-2018, passed 12-3-2018)

§ 5-415 STRUCTURAL REQUIREMENTS.

The minimum structural standards shall be as follows:

(A) *Foundation.*

(1) A foundation shall support the building at all points, and shall be free of holes and cracks which admit rodents, water, or dampness to the interior of the building, or which lessen the capability of the foundation to support the building;

(2) The foundation shall be on firm, reasonably dry ground, and there shall be no water standing, or running, under the building;

(3) Footings shall be sound, and have adequate bearing capacity;

(4) Piers shall be sound;

(5) No wood stiff knees, or other improper piers, shall be allowed; and

(6) All structures shall be underpinned or enclosed in an approved manner, such as aluminum, galvanized asbestos, or masonry.

(B) *Floors.*

(1) No rotted or termite-damaged sills shall be allowed;

(2) No broken, overloaded, or sagging sills shall be allowed;

(3) Sills shall be reasonably level;

(4) Sills shall be properly, and sufficiently, supported;

(5) Sills shall clear the ground by at least 18 inches;

(6) No rotted or termite-damaged joists shall be allowed;

(7) No broken, or sagging, joists shall be allowed;

(8) Flooring shall be weather tight without holes or cracks which permit air to excessively penetrate rooms;

(9) Flooring shall be reasonably smooth, not rotten or worn through;

(10) No loose flooring shall be allowed; and

(11) Floors shall be reasonably level.

(C) *Walls, exterior.*

(1) Every exterior wall shall be protected with paint, or other protective covering, to prevent the entrance, or penetration, of moisture or the weather;

(2) No studs which are rotted, or termite-damaged, shall be allowed;

(3) No broken, or cracked, structural members shall be allowed;

(4) No loose siding shall be allowed;

(5) Walls used as partitions shall not lean or buckle; and

(6) No deteriorated siding or covering shall be allowed.

(D) *Walls, interior.*

- (1) The interior finish shall be free of holes and cracks, which permit air to excessively penetrate rooms;
- (2) No loose plaster, loose boards, or other loose wall materials shall be allowed;
- (3) There shall be no cardboard, newspaper, or other highly combustible material allowed as a wall finish;
- (4) No studs shall be rotted or termite-damaged; and
- (5) No broken or cracked studs, or other broken or cracked structural members, shall be allowed.

(E) *Ceilings.*

- (1) No joists shall be rotted, broken, or sagging, or have improperly supported ends;
- (2) There shall be allowed no holes or cracks, which permit air to excessively penetrate rooms;
- (3) No loose plaster, loose boards, loose sheetrock, or other loose ceiling finish shall be allowed; and
- (4) There shall be allowed, as ceiling finishes, no cardboard or other highly combustible material.

(F) *Roofs.*

- (1) Rafters shall not be rotted, broken, or sagging, or have improperly supported ends;
- (2) No rafters seriously fire-damaged shall be allowed;
- (3) Attics shall be properly vented;
- (4) No rotted, loose, or sagging sheathing shall be allowed;
- (5) No loose roof covering shall be allowed, nor shall there be allowed any holes or leaks, which could cause damage to the structure or rooms; and
- (6) Walls and chimneys shall have proper flashing.

(G) *Stairs and steps.*

- (1) Stairs and steps shall be free of holes, grooves, and cracks large enough to constitute accident hazards;
- (2) Stairwells, and flights of stairs, more than four risers, or having risers more than 30 inches high, shall have rails not less than two feet and six inches measured vertically from the nose of the treads to the top of the rail;
- (3) Every rail shall be firmly fastened, and maintained, in good condition;
- (4) No flight of stairs settled more than one inch out of its intended position, or pulled away from supporting or adjacent structures, shall be allowed; and
- (5) No rotting, sagging, or deteriorated supports shall be allowed.

(H) *Porches and appurtenances.*

- (1) Every outside and inside porch, and any appurtenance thereto, shall be safe to use, and capable of supporting the load that normal use may cause, to be kept in sound condition and good repair; and
- (2) Protective railings shall be required on any unenclosed structure over three feet from the ground level.

(I) *Accessory structures.* All accessory buildings, and structures, including detached garages, shall be maintained structurally sound and in good repair, or shall be raised to grade level, and the debris therefrom removed from the premises; and

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

(Ord. 21-2018, passed 12-3-2018)

§ 5-416 PROPERTY MAINTENANCE.

The minimum property maintenance standards are as follows:

(A) *Buildings and structures.*

- (1) Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint, or other suitable preservative, with sufficient frequency to prevent deterioration; and
- (2) Floors, walls, ceilings, and fixtures shall be maintained in a clean, and sanitary, condition.

(B) *Public areas.* Every owner of a structure containing two, or more, dwelling units shall be responsible for maintaining,

in a clean and sanitary condition, the shared, or public, areas of the structure and premises thereof;

(C) *Rubbish and garbage.* Every person who occupies, and controls, a dwelling unit shall dispose of all rubbish and garbage in a clean, and sanitary, manner by placing it in proper storage facilities;

(D) *Premises.*

(1) Fences, and other minor structures, shall be maintained in safe, and substantial, condition;

(2) Yards and courts shall be kept clean, and free, of physical hazards, rubbish, trash, and garbage;

(3) No heavy undergrowth, or accumulations of plant growth which are noxious or detrimental to health, shall be allowed;

(4) Every premises shall be provided with all-weather vehicular access to, and from, the premises at all times by an abutting public, or private, street;

(5) Walks and steps, constructed so as to provide safety, reasonable durability, and economy of maintenance, should be provided for convenient all-weather access to the structure;

(6) Access to the rear yard from each dwelling unit shall be required. Such access is not, however, acceptable where it is dependent upon passage through another dwelling unit. Each building shall be provided with access to the rear yard. This access for a detached dwelling shall be directly from a street; and

(7) Any nonresidential use of the premises shall be subordinate to its residential use and character.

(E) *Infestation.*

(1) Premises, buildings, and structures shall, by generally accepted methods of extermination, be maintained free of vermination and rodent harborage, and infestation;

(2) Every basement or cellar window used, or intended to be used, for ventilation, and every other opening to a basement or cellar, which might provide an entry for rodents, shall be supplied with screens installed, or with such other approved devices as will effectively prevent entrance by rodents; and

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

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

(G) *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; and

(H) *Care of facilities, equipment, and structure.* No occupant shall willfully destroy, deface, or impair any of the facilities, or equipment, of any part of the structure of a dwelling, or dwelling unit.

(Ord. 21-2018, passed 12-3-2018)

§ 5-417 ROOMING/BOARDING HOUSES.

All of the provisions of this article, and all of the minimum standards and requirements of this article, 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 subsections:

(A) At least one flush water closet, lavatory basin, and bathtub or shower, properly connected to a water and sewer system, and in good working condition, shall be supplied for each four rooms within a rooming house whenever such facilities are shared. All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall, or passageway, to all persons sharing such facilities;

(B) Every lavatory basin and bathtub, or shower, shall be supplied with hot water at all times;

(C) Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof;

(D) Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of the governed area, or of the state;

(E) (1) The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for maintenance of a sanitary condition in every part of the rooming house.

(2) He or she shall be further responsible for the sanitary maintenance of the entire premises when the entire structure, or building, is leased, or occupied, by the operator;

(F) No person shall operate a rooming house unless he or she holds a valid rooming house license, and keeps same posted on the premises; and

(G) The Code Official, on a quarterly basis, shall inspect rooming houses.

(Ord. 21-2018, passed 12-3-2018)

§ 5-418 INSPECTIONS; DUTY OF OWNER AND OCCUPANTS.

Every occupant of a dwelling, or dwelling unit, shall give the owner thereof, or agent or employee, access to any part of such dwelling, or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs, or alterations, as are necessary to effect compliance with the provisions of this article, or with any lawful order issued pursuant to the provisions of this article.

(Ord. 21-2018, passed 12-3-2018)

§ 5-419 REFUSAL TO PERMIT ENTRY FOR INSPECTION.

(A) It shall be unlawful for any owner, or person in possession of premises on which housing is located in the town, to refuse, after being presented with a warrant, as issued in accordance with state law, to permit the Code Official, or duly appointed agents, to enter upon the premises for the purpose of making examinations, as authorized by this article.

(B) Violation of this section shall subject the offender to a civil penalty.

(Ord. 21-2018, passed 12-3-2018) Penalty, see §1-111

Statutory reference:

Similar provisions, G.S. § 15-27.2.

§ 5-420 METHODS OF SERVING COMPLAINTS, ORDERS.

Complaints, or orders, issued by the Code Official, or designee, under this article shall be served upon persons either personally, or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint, or order, may also be sent by regular mail. Service shall be deemed sufficient if the registered, or certified, mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners, or the whereabouts of persons, are unknown and cannot be ascertained by the public official in the exercise of reasonable diligence, or, if the owners are known, but have refused to accept service by registered, or certified, mail, and the Code Official makes an affidavit to that effect, then the serving of the complaint, or order, upon the owners, or other persons, may be made by publication in a newspaper having general circulation in the town at least once, no later than the time at which personal service would be required under the provisions of the part. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Similar provisions, G.S. Chapter 160D.

§ 5-421 DWELLINGS IN VIOLATION; PREVENTIVE ACTION OR PROCEEDING.

If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this article, or any valid order, or decision, of the Code Official made pursuant to this article, the Official may institute any appropriate action, or proceeding, to prevent the unlawful erection, construction, reconstruction, alteration, or use, to restrain, correct, or abate the violation, to prevent the occupancy of the dwelling, or to prevent any illegal act, conduct, or use in, or about, the premises of the dwelling.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Similar provisions, G.S. Chapter 160D.

§ 5-422 PETITION FOR TEMPORARY INJUNCTION.

Any person aggrieved by an order issued by the Code Official may petition the Superior Court for an injunction restraining the Official from carrying out the order, or decision, and the Court may, upon such petition, issue a temporary injunction restraining the Official, pending a final disposition of the case. The petition shall be filed within 30 days after issuance of the order, or rendering of the decision. Hearings shall be had by the Court on a petition with 20 days, and shall be given preference over other matters on the Court calendar. The Court shall hear, and determine, the issues raised, and shall enter such final order, or decree, as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Similar provisions, G.S. Chapter 160D.

§ 5-423 ENFORCEMENT BY CODE OFFICIAL; ASSISTANCE FROM TOWN AGENCIES, DEPARTMENTS.

(A) The Code Official shall be responsible for the enforcement of this article.

(B) The Code Official shall have authority to request the advice, and assistance, of the Town Planning Board, the Housing Authority, the Fire Department, the Health Department, and any other public authority may be deemed appropriate, in determining those areas of the town in which substandard housing may be prevalent, and designate, and schedule, such areas for comprehensive inspection under this article. This procedure shall be in addition to regular, town-wide inspections under this article.

(Ord. 21-2018, passed 12-3-2018)

§ 5-424 POWERS OF CODE OFFICIAL.

The Code Official is authorized to exercise any powers necessary, or convenient, to carry out, and effectuate, the purpose and provisions of this article, including the following powers, in addition to others granted:

(A) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

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

(C) To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession;

(D) To appoint and fix the duties of officials, agents, and employees necessary to carry out the purposes of the ordinances; and

(E) To delegate any of the functions, and powers, under the article to other officials, and other agents.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Similar provisions, G.S. § 160A-448.

§ 5-425 ISSUE OF COMPLAINT; HEARING; DETERMINATION OF UNFIT DWELLING; ABATEMENT PROCEDURE.

(A) Whenever a petition is filed with the Code Official by a public authority, or by at least five residents of the town charging that any dwelling, or dwelling unit, is unfit for human habitation, or whenever it appears to the Official that any dwelling, or dwelling unit, is unfit for human habitation, the Code Official shall, if the preliminary investigation discloses a basis for such charges, issue, and cause to be served upon the owner of, and 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 Official at a place within the county not less than ten, nor more than 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 Official.

(B) If after such notice, and hearing, the Official determines that the dwelling under consideration is unfit for human habitation, the Code Official shall state, in writing, the findings of fact in support of such determination, and shall issue, and cause to be served upon the owners, an order as follows:

(1) If the repair, alteration, or improvement of the dwelling can be made at a cost not to exceed 50% of the value of the dwelling, requiring the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation, or to vacate and close the dwelling as a human habitation;

(2) If the repair, alteration, or improvement of the dwelling cannot be made at a cost not to 50% of the value of the dwelling, requiring the owner, within the time specified in the order, to remove, or demolish, such dwelling; and

(3) If a house has been closed, and/or boarded, for a period of one year or longer, after being closed following proceedings under the substandard housing regulations, and Town Council determines that the owner has abandoned the intent, and purpose, to render it fit for human habitation, and that continuation of the dwelling in its vacated, and closed, status would be inimical to the health, safety, morals, and welfare of the community in that the dwelling would continue to deteriorate, would create a fire, and safety, hazard, would be a threat to children and vagrants, would cause, or contribute, to blight and deterioration of property values in the area, then in such circumstances, the Town Council may, after the expiration of such one-year period, enact an ordinance, and serve such ordinance on the owner, setting forth the following:

(a) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not

exceeding 50% of the then current value of the dwelling, the ordinance shall require that the owner either repair, or demolish and remove, the dwelling within 90 days; or

(b) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding 50% of the then current value of the dwelling, the ordinance shall require the owner to demolish, and remove, the dwelling within 90 days.

(C) The Official is authorized to fix the reasonable value of any housing, and to estimate the cost of repairs, alterations, or improvements for the purposes of this section.

(D) If the owner fails to comply with an order to repair, alter, or improve, or to vacate and close the dwelling, the Official may cause such to be repaired, altered, or improved, or to be vacated and closed, and may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful". Occupation of a building so posted shall constitute a misdemeanor.

(E) If the owner fails to comply with an order to remove, or demolish, the dwelling, the Official may cause such dwelling to be removed, or demolished; provided, however, that the powers of the Official set forth in subsection (D) above, and this subsection, shall not be exercised until the Town Council has, by ordinance, ordered the Official to proceed to effectuate the purpose of this article with respect to the particular property, or properties, which the Official has found to be unfit for human habitation, and which shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. Such ordinance shall be recorded in the Office of the Register of Deeds of the county, and shall be indexed in the name of the property owner in the grantor index.

(F) The amount of the cost of such repairs, alterations, or improvements, or vacating and closing, or removal or demolition, by the Official shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Chapter 160A, Article 10. If the dwelling is removed, or demolished, by the Official, he or she shall sell the materials of such dwelling, any personal property, fixtures, or appurtenances found in, or attached to, the dwelling, and shall credit the proceeds of such sale against the cost of the removal, or demolition, and any balance remaining shall be deposited in the Superior Court by the Official, shall be secured in such manner as may be directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order, or decree, of the Court.

(G) If any occupant fails to comply with an order to vacate a dwelling, the Code Official may file a civil action in the name of the town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment, and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if, on its return, it appears to have been duly served, and if at the hearing the Code Official produces a certified copy of an ordinance adopted by the governing body pursuant to subsection (E) above, authorizing the Official to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated, and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken, as provided in G.S. § 7A-228, and the execution of such judgment may be stayed, as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection (G), unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing body has ordered the Code Official to proceed to exercise duties under subsections (D) and (E) to vacate and close, or remove and demolish the dwelling.

(H) Any violation of this section shall additionally subject the offender to a civil penalty to be recovered by the town pursuant to § 1-111(b).

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Abatement procedures, G.S. Chapter 160D.

§ 5-426 APPEALS FROM ORDERS OF CODE OFFICIAL.

(A) An appeal from any decision, or order, of the Code Official may be taken by any person who is the subject of the decision or order. Any appeal from the Official shall be taken within ten days from the rendering of the decision, or notice, of the order, and shall be taken by filing a notice of appeal with the Planning Department, which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Official shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Code Official refusing to allow the person aggrieved thereby to do any act, the decision shall remain in force until modified, or reversed. When any appeal is from a decision of the Code Official requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the Board of Adjustment, unless the Official certifies to the Board of Adjustment, after the notice of appeal is filed with him or her, that by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of the requirement would cause

imminent peril to life or property, in which case the requirement shall not be suspended, except by a restraining order, which may be granted for due cause shown upon not less than one days' written notice to the Code Official, by the Board of Adjustment, or by a court of record upon petition made pursuant to G.S. Chapter 160D, and the provisions of this article.

(B) The Board of Adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and 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 Official, but the concurring vote of four members of the Board shall be necessary to reverse, or modify, any decision, or order, of the Official. The Board shall have 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.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Similar provisions, G.S. Chapter 160D.

§ 5-427 PETITION TO SUPERIOR COURT.

Any person aggrieved by an order issued by the Code Official, or a decision rendered by the Board of Adjustments, shall have the right, within 30 days after issuance of the order, or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Official pending a final disposition of the cause.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Similar provisions, G.S. Chapter 160D.

§ 5-428 UNAUTHORIZED REMOVAL OF POSTED COMPLAINT, NOTICE, OR ORDER.

No person, without the written consent of the Town Manager, or appointed agent, shall remove, or permit the removal of, any complaint, notice, or order posted in accordance with the provisions of this article. Any person violating, or failing to comply, with the provisions of this section shall be guilty of a misdemeanor.

(Ord. 21-2018, passed 12-3-2018)

§ 5-429 RENTING UNFIT DWELLING AFTER NOTICE.

When the Code Official finds that a dwelling is unfit for human habitation within the meaning of this article, and has notified the owner to such effect, and the time limit set by the Official for the repair, alteration, improvement, removal, demolition, or vacating and closing the same has expired, no person shall receive rentals, or offer for rent or occupancy, such dwelling, or dwelling unit, as a human habitation until such time as the order of the Official is obeyed, or reversed by a court of competent jurisdiction, in accordance with the law. Each day such offense continues shall be deemed a separate offense. Any violation of this section shall subject the offender to a civil penalty.

(Ord. 21-2018, passed 12-3-2018)

§ 5-430 CERTIFICATE OF OCCUPANCY.

(A) The town shall not provide, nor permit another to provide, either public or private, utility services such as water, gas, electricity, sewer, and the like, to any dwelling unit becoming vacant until such dwelling unit has been inspected, brought into compliance with this article, and a valid certificate of occupancy, as required, has been issued. This requirement shall not preclude the temporary use of such utility services for alteration. The Building Official shall be responsible for making the determination as to when such temporary services may be necessary.

(B) (1) No certificate of occupancy may be issued for any single-family or multi-family residential building on which construction is begun on, or after, January 1, 1978, until it has been certified as being in compliance by the Energy and Insulation Official with the minimum insulation standards for residential construction, as prescribed in the *State Building Code*.

(2) For structures built prior to 1978 and no insulation exists, the attic shall be insulated to an R-30 value. If insulation exists in a structure built before 1978, it must have an R-19 value.

(3) It shall be unlawful for any person to occupy, or allow another to occupy, or offer for rent, a dwelling, or dwelling unit, until a valid certificate of occupancy has been issued.

(Ord. 21-2018, passed 12-3-2018) Penalty, see §1-111

§ 5-431 CHANGES IN WORK AFTER PERMIT ISSUED.

After a permit has been issued, no changes or deviations from the terms of the application and permit, or changes or

deviations from the plans, or specifications, involving any work under the jurisdiction of this article, shall be made until specific written approval of such changes, or deviations, has been obtained from the appropriate official.

(Ord. 21-2018, passed 12-3-2018)

§ 5-432 VIOLATIONS; PENALTY.

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, upon order of the Code Official duly made, and served, as provided in this article, within the time specified in the order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate, and distinct, offense. It shall be unlawful for the owner of any dwelling, or dwelling unit, with respect to which an order has been issued pursuant to this section, to occupy, or permit the occupancy, of the same after the time prescribed in the order for its repair, alteration, or improvement, or its vacation and closing, or removal or demolition. Each day that such occupancy continues after the prescribed time shall constitute a separate, and distinct, offense.

(Ord. 21-2018, passed 12-3-2018) Penalty, see §1-111

§§ 5-433 TO 5-450 RESERVED.

ARTICLE V: PROPERTY NUMBERING

Section

- 5-501 Numbering system
- 5-502 Property to display number
- 5-503 Numbers for future buildings
- 5-504 Unlawful to deface number

Editor's note:

Ord. 7-87, adopted June 15, 1987, did not specifically amend the code, hence inclusion herein as Art. V, §§ 5-501-5-504, was at the discretion of the editor.

§ 5-501 NUMBERING SYSTEM.

(A) Main Avenue is hereby designated as the north-south axis, and Main Street is hereby designated as the east-west axis, and all avenues, streets, and alleys running generally north and south shall be numbered from the east-west axis consecutively. Avenues, streets, or alleys running generally east and west shall be numbered from the north-south axis in the same manner. Wherever possible, 100 numbers shall be allowed to each block so that the number of each consecutive block shall commence with consecutive hundreds and one.

(B) One whole number shall be assigned for every 25 feet of ground, whether improved property or vacant lot, on every street within the corporate limits. Odd numbers shall be assigned to the east side of the street on all north-south streets, and even numbers to the west, and odd numbers shall be assigned to the north side of the street, and even numbers to the south side.

(Ord. 7-87, passed 6-15-1987)

§ 5-502 PROPERTY TO DISPLAY NUMBER.

Each property owner of improved property shall on, or before, the effective date of this article, be assigned a number in accordance with the property numbering system described in § 5-501, and shall display the assigned number in a conspicuous place on said property. Numbers shall be provided by the town.

(Ord. 7-87, passed 6-15-1987)

§ 5-503 NUMBERS FOR FUTURE BUILDINGS.

All residence and business buildings erected after the adoption of this article shall be assigned a number in accordance with this property numbering system, described in § 5-501, and shall display such number, as provided in §5-502.

(Ord. 7-87, passed 6-15-1987)

§ 5-504 UNLAWFUL TO DEFACE NUMBER.

It shall be unlawful for any person to alter, deface, or take down any number placed on any property in accordance with this article, except for repair, or replacement, of such number.

(Ord. 7-87, passed 6-15-1987) Penalty, see §1-111

ARTICLE VI: MINIMUM STANDARDS FOR

NONRESIDENTIAL BUILDINGS

Section

- 5-601 Exercise of police powers; authority
- 5-602 Definition of abandoned and/or unsafe structure
- 5-603 Procedure for enforcement
- 5-604 Appeal; finality of order if not appealed
- 5-605 Securing, closing, and demolition by the town
- 5-606 Actions by Town Council
- 5-607 Failure to comply with order
- 5-608 Lien on property
- 5-609 Other unlawful actions
- 5-610 Alternative remedies
- 5-611 Conflicts with other provisions
- 5-612 Unsafe buildings condemned
- 5-613 Appeals in general
- 5-614 Changes in work after permit issued
- 5-615 Report of owner's failure to comply with Code Official's order
- 5-616 to 5-620 Reserved

§ 5-601 EXERCISE OF POLICE POWERS; AUTHORITY.

The Town Council hereby finds, and declares, that there exists within the town limits, and its environs, unsafe structures which are a health, or safety, hazard as a result of 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 order to alleviate these unsafe and dangerous conditions for the health, safety, and welfare of the citizens, and its environs, a public necessity exists to exercise the police powers conferred upon the town for the repair, closing, or demolition of such structures.

(Ord. 21-2018, passed 12-3-2018)

§ 5-602 DEFINITION OF ABANDONED AND/OR UNSAFE STRUCTURE.

An **ABANDONED AND/OR UNSAFE STRUCTURE** is defined as a nonresidential building, or structure, which has not been occupied by authorized persons for at least six months, and which persistently, or repeatedly, becomes unprotected or unsecured, or which has been occupied by unauthorized persons, or which presents a danger of structural collapse, fire, disease, or a threat to children.

(Ord. 21-2018, passed 12-3-2018)

§ 5-603 PROCEDURE FOR ENFORCEMENT.

(A) *Duty of Code Official.* It shall be the duty of the Code Official to examine nonresidential structures located in the town, and its environs, where conditions described in § 5-601 exist for the purpose of locating, and taking action, with respect to such structures as appear to be a health or safety hazard. In exercising this power, department members shall have the right to enter on any premises within the jurisdiction of the department at all reasonable hours for purposes of inspection, or other enforcement action, upon presentation of proper credentials.

(B) *Notice of complaint.*

(1) If the inspection discloses health or safety hazards, as described in this article, the Code Official shall affix a notice of unsafe character in a conspicuous place on the exterior wall of the structure, giving notice of its unsafe, or dangerous, conditions, and cause to be served upon the owner of, and parties in interest to, the structure a complaint stating the charges and containing a notice. If the owner of a building, or structure, that has been condemned as unsafe, pursuant to G.S. Chapter 160D, shall fail to take prompt corrective measures, the Official shall give him or her written notice, by certified, or registered, mail to the last known address, or by personal service, that the building, or structure, is in a condition that appears to meet one, or more, of the following conditions:

- (a) Constitutes a fire and safety hazard;
- (b) Is dangerous to life, health, or other property;

(c) Is likely to cause, or contribute, to blight, disease, vagrancy, or danger to children; or

(d) Has a tendency to attract persons intent on criminal activities, or other activities which would constitute a public nuisance.

(2) (a) A hearing will be held before the Official at a designated place therein fixed, not less than ten, nor more than 30, days after serving of said complaint. 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 ten 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.

(b) No oversight, or dereliction, of duty on the part of any official, or employee, of the town shall be deemed to legalize the violation of any provision of this article, or any provision of any regulatory code adopted in this chapter.

(C) *Hearing.* 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. Any person desiring to do so may attend the 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 Official.

(D) *Procedure after hearing.* After such hearing, if the Official finds that a structure constitutes a health, or safety, hazard, the Code Official shall state, in writing, the findings of fact in support of such determination. In such case, the Official shall issue, and cause to be served upon the owner thereof, an order directing, and requiring, the owner to repair, close, vacate, or demolish the structure as necessary to correct the health, or safety, hazard within a specified period of time.

(Ord. 21-2018, passed 12-3-2018)

§ 5-604 APPEAL; FINALITY OF ORDER IF NOT APPEALED.

Any owner who has received an order under G.S. § 160A-429 may appeal from the order to the Board of Adjustment by giving notice of appeal, in writing, to the Code Official and to the Town Clerk within ten days following issuance of the order. In the absence of an appeal, the order of the Official shall be final. The Board of Adjustment shall hear, and render a decision, in an appeal within a reasonable time. The Board of Adjustment may affirm, modify and affirm, or revoke the order.

(Ord. 21-2018, passed 12-3-2018)

§ 5-605 SECURING, CLOSING, AND DEMOLITION BY THE TOWN.

If the owner fails to comply with an order of the Code Official to repair, secure and close, vacate, or demolish, the Official shall take one, or more, of the following actions as necessary:

- (A) Secure the issuance of a warrant charging such owner with violation of this article;
- (B) Secure, and close, said structure;
- (C) Cause such structure to be repaired, altered, or improved; or
- (D) Cause such structure to be demolished.

(Ord. 21-2018, passed 12-3-2018)

Statutory reference:

Similar provisions, G.S. § 15-27.2.

§ 5-606 ACTIONS BY TOWN COUNCIL.

(A) The powers of the Code Official, as set forth in §5-605(C) and (D), shall not be exercised until the Town Council has, by ordinance, ordered the Official to proceed to effectuate the purpose of this article with respect to the particular property, or properties, which the Official has found to be a health, or safety, hazard, and which shall be described in the ordinance. Such ordinance shall be recorded in the Office of the Register of Deeds of the county, and shall be indexed in the name of the property owner in the grantor index.

(B) The amount of the cost of such repairs, alterations, or improvements, or vacating and closing, or removal or demolition, by the Official shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Chapter 160A, Article 10. If the structure is removed, or demolished, by the Official, he or she shall sell the materials of such structure, any personal property, fixtures, or appurtenances found in, or attached to, the structure, and shall credit the proceeds of such sale against the cost of the removal, or demolition, and any balance remaining shall be deposited in the Superior Court by the Official, shall be secured in such manner as may be directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order, or decree, of the Court.

(Ord. 21-2018, passed 12-3-2018)

§ 5-607 FAILURE TO COMPLY WITH ORDER.

If the owner of a building, or structure, fails to comply with an order issued pursuant to G.S. § 160A-429 from which no

appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he or she shall be guilty of a Class 1 misdemeanor, additionally subject the offender to civil penalty to be recover by the town pursuant article G.S. § 14-4; every day such person shall willfully fail, or refuse, to comply with any final order, or direction, of the Code Official or Town Council made by virtue, and in pursuance of this article, shall constitute a separate, and distinct, offense.

(Ord. 21-2018, passed 12-3-2018)

§ 5-608 LIEN ON PROPERTY.

The amount of the cost of such repair, alterations, improvements, vacating and closing, or demolition ordered by the Town Council, or by the Official, shall be a lien against the real property upon which such cost was incurred; said lien shall be filed, have the same priority, and be collected, or foreclosed upon, in the same manner as is provided for assessments, pursuant to G.S. Chapter 160A, Article 10.

(Ord. 21-2018, passed 12-3-2018)

§ 5-609 OTHER UNLAWFUL ACTIONS.

(A) No person shall remove, or permit the removal of, any complaint, notice, or order posted in accordance with the provisions of § 5-603 of this article.

(B) It shall be unlawful for the owner of any building upon whom a notice, complaint, or order has been served, to sell, transfer, mortgage, lease, or otherwise dispose of said building, unless one of the following actions have been taken:

(1) Compliance with the provisions of the notice, complaint, or order; or

(2) Furnish a copy of any notice, complaint, or order to the transferee, lessee, or mortgagee, and give written notice to the Official of said action.

(Ord. 21-2018, passed 12-3-2018) Penalty, see §1-111

§ 5-610 ALTERNATIVE REMEDIES.

Neither this article, nor any of its provisions, shall be construed to impair, or limit, in any way the power of the town to define, and declare, nuisance and to cause their abatement by summary action, or otherwise, or the enforcement of any other remedy, or remedies, provided, or in other ordinances of laws.

(Ord. 21-2018, passed 12-3-2018)

§ 5-611 CONFLICTS WITH OTHER PROVISIONS.

In the event any provision, standard, or requirement of this article is found to be in conflict with a 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 of the health and safety of the residents of the town and environs, shall prevail.

(Ord. 21-2018, passed 12-3-2018)

§ 5-612 UNSAFE BUILDINGS CONDEMNED.

The Code Official may declare a nonresidential building, or structure, within a community development target area designated by the Town Council, or within a development zone authorized by G.S. § 160A-503(10), to be unsafe if it meets both of the following conditions:

(A) It appears to the Official to be vacant or abandoned; and

(B) It appears to the Official to be in such dilapidated condition as to cause, or contribute, to blight, disease, vagrancy, fire, or safety hazard, to be a danger to children, or tend to attract persons intent on criminal activities, or other activities which would constitute a public nuisance.

(Ord. 21-2018, passed 12-3-2018)

§ 5-613 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 appointed designee, or other official specified in G.S. § 143-139, by filing a written notice with him or her, 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 the courts, as provided by law.

(Ord. 21-2018, passed 12-3-2018)

§ 5-614 CHANGES IN WORK AFTER PERMIT ISSUED.

After a permit has been issued, no changes, or deviations, from the terms of the application and permit, or changes, or deviations, from the plans or specifications involving any work under the jurisdiction of this article, shall be made until specific written approval of such changes, or deviations, has been obtained from the appropriate official.

(Ord. 21-2018, passed 12-3-2018)

§ 5-615 REPORT OF OWNER'S FAILURE TO COMPLY WITH CODE OFFICIAL'S ORDER.

If the owner does not appeal from the final order, or direction, of the Code Official requiring that the building, or structure, be demolished and removed, or the taking of such other steps, as may be required, to abate the nuisance and remove the hazards, and fails, or refuses, to comply with such order and direction, it shall be the duty of the Official to file a written report thereof with the Town Manager, who shall cause such report to be placed on the agenda for action by the Town Council at its next ensuing regular meeting, or at some subsequent meeting to which the Town Council may continue the same. The Code Official shall mail a copy of such report by certified, or registered, mail to the owner's last known address, or have a copy of such report delivered to such owner. Such report shall specify the date of the meeting of the Town Council for which the matter will be docketed for action.

(Ord. 21-2018, passed 12-3-2018)

§ 5-616 TO 5-620 RESERVED.

ARTICLE VII: ABANDONED MANUFACTURED HOMES

Section

- 5-701 Intent
- 5-702 Abandoned, nuisance, and junked mobile homes unlawful
- 5-703 Notice requirements for abandoned manufactured homes
- 5-704 Removal of abandoned manufactured homes
- 5-705 Protection against criminal or civil liability
- 5-706 Appeals

§ 5-701 INTENT.

(A) The intent of this article is to protect the public health, and environment, through the deconstruction of abandoned manufactured homes to reduce blight and unattractive nuisances.

(B) It is a policy of the town to promote the removal of reusable, or recyclable, materials to reduce the impact of such solid wastes, and production of said materials, on the environment.

(Ord. 21-2018, passed 12-3-2018)

§ 5-702 ABANDONED, NUISANCE, AND JUNKED MOBILE HOMES UNLAWFUL.

(A) It shall be unlawful for the registered owner, or person entitled to possession of a manufactured home, and for the owner, lessee, or occupant of the real property upon which the manufactured home is located to leave, allow, or suffer the manufactured home to remain on the property after it has been declared an abandoned manufactured home, or a public nuisance.

(B) A manufactured home shall be deemed to be an abandoned manufactured home for the purposes of this article in the following circumstances: Any manufactured home that is either vacant, or in need of extensive repair; and an unreasonable danger to public health, safety, welfare, or the environment.

(C) A manufactured home shall be considered abandoned when it has not been occupied for at least 120 days, and meets any of the following criteria:

- (1) Provides a location for loitering, vagrancy, unauthorized entry, or other criminal activity;
- (2) Has been boarded up for at least 30 days;
- (3) Has taxes in arrears for a period of time exceeding 365 days; and/or
- (4) Has all utilities disconnected or not in use.

(Ord. 21-2018, passed 12-3-2018) Penalty, see §1-111

§ 5-703 NOTICE REQUIREMENTS FOR ABANDONED MANUFACTURED HOMES.

The town shall notify the responsible party and the land owner for each identified abandoned manufactured home, in writing, and shall be sent to the person in the form of certified mail.

(Ord. 21-2018, passed 12-3-2018)

§ 5-704 REMOVAL OF ABANDONED MANUFACTURED HOMES.

(A) The owner, or responsible party, shall be given 60 days from receipt of the written notice to dispose of the abandoned

manufactured home in a legal manner.

(B) If the owner, or responsible party, fails to comply with this order, the town shall take any action it deems reasonably necessary to dispose of the abandoned manufactured home, including entering the property where the abandoned manufactured home is located and arranging to have the home deconstructed, and disposed of, in a manner consistent with the town's garbage collection and disposal provisions.

(C) If the property owner does not remove said abandoned manufactured home a lien will be placed against the real property if not paid within 30 days, and shall be collected as unpaid taxes.

(Ord. 21-2018, passed 12-3-2018)

§ 5-705 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil, or criminal, action to any owner, or other person legally entitled to the possession of an abandoned, nuisance, or junked manufactured home, for disposing of such manufactured home as provided in this article.

(Ord. 21-2018, passed 12-3-2018)

§ 5-706 APPEALS.

(A) Within the 60-day period mentioned in §5-704(A), the owner of the property where the nuisance exists may appeal the findings of the Code Official to the Board of Adjustment by giving written notice of appeal to the Code Official, the appeal to stay the abatement of the nuisances by the Code Official until a final determination by the Board of Adjustment. In the event no appeal is taken, the Code Official may proceed to abate the nuisance.

(B) The Board of Adjustment, in the event an appeal is taken, as provided in subsection (A) above, may, after hearing all interested persons and reviewing the findings of the Code Official, reverse the finding made pursuant to § 5-704, but if the Board of Adjustment shall determine that the findings of the Code Official, pursuant to § 5-704(A) and (B), are correct and proper, it shall declare the condition existing on the property to be a danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the town and a public nuisance, and direct the Code Official to cause the conditions to be abated.

(Ord. 21-2018, passed 12-3-2018)