

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING REGULATIONS

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GENERAL PROVISIONS

§ 150.01 COUNTY BUILDING INSPECTOR; INSPECTION FEES ADOPTED.

(A) The Catawba County Building Inspector is directed to exercise the powers of Building Inspector within the town, effective immediately, and continue to exercise the powers until the time as the Board of Alderpersons officially withdraws its request.

(B) The present fee schedule for building inspections in Catawba County shall also apply to the town, and the fee schedule as adopted by Catawba County for building inspections from time to time shall also apply to the town until the time as the town shall officially adopt a different fee schedule and officially communicate same to the county.
(1994 Code, § 150.01)

§ 150.02 PERMIT REQUIRED; APPROVAL; ISSUANCE.

No building or structure shall be built, enlarged, altered, or moved without a permit from the town, which may require a plan of the proposed work, together with a statement of the materials shall be used. All applications for building permits shall be approved by the Building Inspector before the permit is issued.

(1994 Code, § 150.02) Penalty, see § 150.99

§ 150.03 HOUSE NUMBERING REQUIRED.

(A) It shall be the duty of the owner of each house or building in the town to properly display on the front thereof, in a position easily observed, the proper number of his or her house or building as shown upon the official town map and/or as designated by the Town Engineer, for the ascertainment of which the owner shall apply to the Town Clerk or his or her designee.

(B) Upon notice by the Town Administrator to any owner or occupant of any house or building, it shall be the duty of the owner or occupant within 10 days after the notice shall have been given assigning to the house or building a number or numbers, to cause the house or building to be numbered as required, at the expense of the owners or occupant.
(1994 Code, § 150.03) Penalty, see § 150.99

**§ 150.04 ADOPTION OF LAWS
CONCERNING BUILDING, GENERAL
REMODELING, AND CONSTRUCTION OF
ALL TYPES.**

The provisions of G.S. §§ 143-136 through 143-143.4, Building Code Council and Building Code, are hereby adopted as the laws governing and applying to building, general remodeling, and construction of all types within the Town of Long View, G.S. § 143-138(e).

§ 150.99 PENALTY.

Any person who shall violate any of the provisions of this chapter and the codes adopted herein shall be punished as provided in § 10.99 of this code of ordinances. Each day that the violation shall continue shall be deemed to be a separate offense.
(1994 Code, § 150.99)

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

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Cross-reference:

Building Regulations, see Chapter 150

GENERAL PROVISIONS

§ 151.01 FINDINGS OF FACT.

(A) The flood hazard areas of the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.
(1994 Code, § 151.01)

§ 151.02 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities which serve the uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
(1994 Code, § 151.02)

§ 151.03 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business interruptions;

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;

(F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in a manner as to minimize flood blight areas; and

(G) To insure that potential home buyers are notified that property is in a flood area.
(1994 Code, § 151.03)

§ 151.04 DEFINITIONS.

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

ADDITION (TO AN EXISTING BUILDING).

An extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction, unless the addition, renovation, or reconstruction to any building, that was constructed prior to the initial Flood Insurance Study for that area, and the addition, renovation, or reconstruction does not equal 50% of the present market value of the structure. Where a fire wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

APPEAL. A request from a review of the Local Administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of being equaled or exceeded in any given year.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. The lowest level or story which has its floor subgrade on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A **BREAKAWAY WALL** shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires a professional engineer or architect's certificate.

BUILDING. Any structure built for support, shelter, or enclosure for any occupancy or storage.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

ELEVATED BUILDING. A non-basement building built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, or X to have the top of the elevated floor, or in the case of a building in Zones V1-V30, VE, or V to have the bottom of the lowest horizontal structural member of the elevated floor above the ground by means of pilings, columns (posts and piers), shear walls parallel to the flow of water and adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, and X, **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, **ELEVATED BUILDING** also includes a building otherwise meeting the definition of **ELEVATED BUILDING**,

even though the area below is enclosed by means of breakaway walls if the breakaway walls meet the standards of § 151.46(B)(5).

EXISTING MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this chapter.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK or SUBDIVISION. The preparation of the additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency

Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

FLOOR. The top surface of an enclosed area in a building (including basement), such as top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places; and/or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior, or directly by the Secretary of Interior in states without approved programs.

LEVEE. A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that the enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME. A structure as defined in G.S. § 143-145(7).

MANUFACTURED HOME PARK or SUBDIVISION. A parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (N.G.V.D.).

NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D.). As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of this chapter and includes any subsequent improvements to the structures.

NEW MANUFACTURED HOME PARK or SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after the effective date of this chapter.

NONCONFORMING BUILDING or USE. Any legally existing building or use which fails to comply with the provisions of the chapter.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub. L. No. 97-348, being U.S.C. §§ 3501 *et seq.*, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation,

addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. For floodplain management purposes, a walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other man-made facilities or infrastructures that are principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of "substantial improvement."

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project of improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which

have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK or SUBDIVISION. Where the repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

VARIANCE. A grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in § 151.25 *et seq.* is presumed to be in violation until the time as that documentation is provided.
(1994 Code, § 151.04)

§ 151.05 LANDS TO WHICH THESE REGULATIONS APPLY.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the town.
(1994 Code, § 151.05)

§ 151.06 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Plain Insurance Study, dated 11-12-1979, with

accompanying maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of this chapter.
(1994 Code, § 151.06)

§ 151.07 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.
(1994 Code, § 151.07) Penalty, see § 151.99

§ 151.08 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.
(1994 Code, § 151.08) Penalty, see § 151.99

§ 151.09 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(1994 Code, § 151.09)

§ 151.10 INTERPRETATION.

In the interpretation and application of this chapter all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.
(1994 Code, § 151.10)

§ 151.11 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within the areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(1994 Code, § 151.11)

***PROVISIONS FOR FLOOD HAZARD
REDUCTION*****§ 151.25 GENERAL STANDARDS.**

In all areas of special flood hazard the following provisions are required:

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(C) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and

(H) Any alteration, repair, reconstruction or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.

(1994 Code, § 151.20) Penalty, see § 151.99

§ 151.26 NONCONFORMING BUILDINGS OR USES.

Nonconforming buildings or uses may not be enlarged, replaced, or rebuilt unless the enlargement or reconstruction is accomplished in conformance with the provisions of this chapter. Provided, however, nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the Floodway Zone, provided that the bulk of the building or structure below base flood elevation in the Floodway Zone is not increased and provided that the repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(1994 Code, § 151.21) Penalty, see § 151.99

§ 151.27 SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in §§ 151.06 or 151.47(J), the following provisions are required.

(A) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than 1 foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.

(B) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than 1 foot above the level of the base flood elevation. Structures located in A-zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this division are satisfied. The certification shall be provided to the official as set forth in § 151.46(B)(5).

(C) *Manufactured homes.*

(1) Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than 1 foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(2) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of division (C)(1) herein must

be elevated so that the lowest floor of the manufactured home is elevated no lower than 1 foot above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

(3) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the sight, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Local Administrator and the local Emergency Management Coordinator.

(D) *Recreational vehicles.* A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreation vehicles placed on sites shall either:

(1) Be on site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use; or

(3) Meet the requirements of §§ 151.25, 151.26, 151.27(C), and 151.46(B)(3).

(E) *Elevated buildings.* New construction or substantial improvements of elevated buildings that

include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to preclude finished living space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than 1 foot above grade; and

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(3) The interior portion of the enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

(F) *Temporary structures.* Prior to the issuance of a development permit, for a temporary structure, the following requirements must be met.

(1) All applicants must submit to the Local Administrator a plan for the removal of the structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:

(a) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(b) The time frame prior to the event at which a structure will be removed;

(c) A copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and

(d) Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

(2) The above information shall be submitted in writing to the Local Administrator for review and written approval.

(G) *Accessory structures.* When accessory structures (sheds, detached garages, and the like) with a value of \$3,000 or less, are to be placed in the floodplain the following criteria shall be met:

(1) Accessory structures shall not be used for human habitation;

(2) Accessory structures shall be designed to have low flood damage potential;

(3) Accessory structures shall be firmly anchored in accordance with § 151.25(A);

(4) Service facilities such as electrical and heating equipment shall be elevated in accordance with § 151.25(D);

(5) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance of the flow of floodwaters; and

(6) Openings to relieve hydrostatic pressure during a flood shall be provided above BFE in conformance with §§ 151.25 and 151.26.

(1994 Code, § 151.22) Penalty, see § 151.99

§ 151.28 FLOODWAYS.

(A) Located within areas of special flood hazard established in § 151.06, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and has erosion potential.

(B) The following provisions shall apply within the areas.

(1) No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. The certification and technical data shall be presented to the Local Administrator.

(2) If § 151.27(F)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 151.25 *et seq.*

(3) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of § 151.27(C) are met.

(1994 Code, § 151.23) Penalty, see § 151.99

§ 151.29 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS OR FLOODWAYS.

Located within the areas of special flood hazard established in § 151.06 are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within the areas.

(A) No encroachments, including fill, new construction, substantial improvements, or new development shall be permitted within a distance of the stream bank equal to 4 times the width of the stream at the top of the bank or 20 feet each side from top of bank, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If division (A) of this section is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within the areas shall comply with all applicable flood hazard chapter provisions of §§ 151.25 *et seq.* and shall be elevated or floodproofed in accordance with elevations established in accordance with § 151.47(J). When base flood elevation data is not available from a federal, state, or other source, the lowest floor, including basement, shall be elevated at least 2 feet above the highest adjacent grade.

(1994 Code, § 151.24) Penalty, see § 151.99

§ 151.30 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or 5 acres.

(1994 Code, § 151.25) Penalty, see § 151.99

§ 151.31 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).

(A) Located within the areas of special flood hazard established in § 151.06 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.

(B) The following provisions shall apply within the areas.

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least 2 feet above the highest adjacent grade.

(2) All new construction and substantial improvements of non-residential structures shall:

(a) Have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least 2 feet above the highest adjacent grade; or

(b) Be completely floodproofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(1994 Code, § 151.26) Penalty, see § 151.99

ADMINISTRATION AND ENFORCEMENT**§ 151.45 DESIGNATION OF LOCAL ADMINISTRATOR.**

The Town Administrator or other appropriately designated person or agency by the Board of Alderpersons is hereby appointed to administer and implement the provisions of this chapter. (1994 Code, § 151.35)

§ 151.46 DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

(A) Application for a development permit shall be made to the Local Administrator on forms furnished by him or her prior to any development activities. The development permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities.

(B) Specifically, the following information is required.

(1) Where base flood elevation data is provided in accordance with § 151.47(J), the application for a development permit within the Zone A on the Flood Insurance Rate Map shall show:

(a) The elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures; and

(b) If the structure has been floodproofed in accordance with § 151.27(B), the elevation (in relation to mean sea level) to which the structure was floodproofed.

(2) Where the base flood elevation data is not provided, the application for a development permit must show construction of the lowest floor at least 2 feet above the highest adjacent grade.

(3) Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.

(4) When a structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in § 151.27(B).

(5) A floor elevation or floodproofing certification is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Local Administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Local Administrator shall review the floor elevation survey data submitted. Deficiencies detected by the review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required hereby shall be cause to issue a stop-work order for the project.

(1994 Code, § 151.36)

§ 151.47 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.

Duties of the Local Administrator shall include, but not be limited to:

(A) Review all development permits to assure that the requirements of this chapter have been satisfied;

(B) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of the permits be provided and maintained on file with the development permit;

(C) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of the notification to the Federal Emergency Management Agency;

(D) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;

(E) Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of §§ 151.25 *et seq.* are met;

(F) Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 151.46(B)(5);

(G) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with § 151.46(B)(5);

(H) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with § 151.27(B);

(I) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this subchapter;

(J) When base flood elevation data or floodway data has not been provided in accordance with § 151.06, obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to § 151.30(D), in order to administer the provisions of this chapter;

(K) Make on-site inspections of projects in accordance with § 151.48;

(L) Serve notices of violations, issue stop-work orders, revoke permits, and take corrective actions in accordance with § 151.48;

(M) Maintain all records pertaining to the administration of this chapter and make these records available for public inspection; and

(N) Provide the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with 2 copies of the maps delineating new corporate limits within 6 months from date of annexation or change in corporate boundaries.
(1994 Code, § 151.37)

§ 151.48 ADMINISTRATIVE PROCEDURES.

(A) *Inspections of work in progress.* As the work pursuant to a permit progresses, the Local Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of local regulations and the terms of the permit. In exercising this power, the Administrator has a right, upon

presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(B) *Stop-work orders.* Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(C) *Revocation of permits.* The Local Administrator may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(D) *Periodic inspections.* The Local Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(E) *Violations to be corrected.* When the Local Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law in the property he or she owns.

(F) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the

Administrator shall give him or her written notice, by certified or registered mail to his or her last known address or by personal service:

(1) That the building or property is in violation of the Flood Damage Prevention Chapter;

(2) That a hearing will be held before the Local Administrator at a designated place and time, not later than 10 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

(3) That following the hearing, the Local Administrator may issue the order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(G) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Administrator shall find that the building or development is in violation of the Flood Damage Prevention Chapter, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within the period, not less than 60 days, the Administrator may prescribe; provided that where the Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in the lesser period as may be feasible.

(H) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the Administrator and the Clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(I) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he or she shall

be guilty of a misdemeanor and shall be punished in the discretion of the court.

(1994 Code, § 151.38) Penalty, see § 151.99

§ 151.49 VARIANCE PROCEDURES.

(A) The Board of Adjustment as established by the town shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal the decision to the Court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(D) In passing upon the applications, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(E) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach the conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(F) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
(1994 Code, § 151.39)

§ 151.50 CONDITIONS FOR VARIANCES.

(A) Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or chapters.

(B) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(C) Variances shall only be issued upon a showing of good and sufficient cause; a determination that failure to grant the variance would result in

exceptional hardship; and, a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or chapters.

(D) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. The notification shall be maintained with a record of all variance actions.

(E) The Local Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(1994 Code, § 151.40)

§ 151.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking the other lawful action as is necessary to prevent or remedy any violation.
(1994 Code, § 151.99)

CHAPTER 152: HOUSING STANDARDS

Section

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§ 152.01 FINDINGS; PURPOSE; AUTHORITY.

(A) Pursuant to G.S. § 160A-441, it is hereby found and declared that there exist in the town's corporate limits, dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe and unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town, as authorized by G.S. Ch. 160A, Art. 19, Part 6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings

used for human habitation, as expressly authorized by G.S. § 160A-444.

(C) In addition, it is hereby found and declared, under the authority of G.S. § 160A-174, that there exist in the town dwellings which, although not meeting the classification as unfit for human habitation, fail to fully comply with all the minimum standards for housing fitness as established herein and therefore have present 1 or more conditions which are inimical to the public health, safety and general welfare. Such conditions, if not corrected can lead to deterioration and dilapidation of dwellings which render them unfit for human habitation.

(Ord. passed 9-8-2008)

§ 152.02 SCOPE.

(A) This chapter is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof which are public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, rooming houses or buildings, structures or premises used or intended for use as such.

(B) The provisions of this chapter shall apply to all existing housing and to all housing hereafter constructed within the town. Portable, mobile or demountable buildings or structures, including trailers, manufactured homes and mobile homes when used or intended for use for housing within the town, shall be subject to the applicable provisions of this chapter.

This chapter establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this chapter.

(C) The provisions of this chapter shall also apply to abandoned structures which are found by the Board of Aldermen to be 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 conditions.

(Ord. passed 9-8-2008)

§ 152.03 DEFINITIONS.

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

ABANDONED STRUCTURE. Any structure, whether designed and intended for residential or other uses, which has been vacant or not in active use, regardless of purpose or reason, for the past 2-year period and which is determined by the Housing Inspector to be unfit for human habitation or occupancy based upon the standards as set forth in this chapter.

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

CELLAR. A portion of a building located partly or wholly underground having inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DETERIORATED DWELLING. A dwelling that is unfit for human habitation and can be repaired, altered or improved to comply with all of the

minimum standards established by this chapter, at a cost not in excess of 50% of its value, as determined by finding of the Housing Inspector.

DILAPIDATED DWELLING. A dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by finding of the Housing Inspector.

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 accessory buildings and structures and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose.

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.

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 Housing Inspector.

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, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

HOUSING INSPECTOR. The person appointed by the Town Manager to carry out the administration and enforcement of this chapter.

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

MANUFACTURED HOME (MOBILE HOME).
A structure as defined in G.S. § 143-145(7).

MULTIPLE DWELLING. Any dwelling containing more than 2 dwelling units.

OCCUPANT. Any person over 1 year of age living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

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

OWNER. The holder of the title in fee simple and every mortgage of record.

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

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

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing 1 or more rooming units, in which space is let by the owner or operator to 3 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 purposes.

RUBBISH. Combustible and noncombustible waste materials except garbage and ashes, and the

term shall include, but not be limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

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

Whenever the words "dwelling", "dwelling unit", "rooming house", "rooming unit" or "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof".
(Ord. passed 9-8-2008)

§ 152.04 OFFICE OF HOUSING INSPECTOR CREATED; POWERS AND DUTIES.

For the purposes of administering and enforcing the provisions of this chapter the office of Housing Inspector is hereby created. The Housing Inspector shall be appointed by the Town Manager, and shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

(A) *Investigations.* To investigate the dwelling and building conditions in the town in order to determine which dwellings therein are unfit for human habitation and dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in this chapter.

(B) *Oaths, witnesses, and the like.* To administer oaths and affirmations and to examine witnesses and receive evidence.

(C) *Right of entry.* To enter upon and within premises and dwellings for the purpose of making examinations and investigations; provided, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.

(D) *Warrants; Citations, and the like.* To swear criminal warrants, issue civil citations and to take such other actions as may be necessary to carry out the enforcement procedures of this section.

(E) *Delegation of functions, and the like.* To delegate any of his or her functions and powers under this section to such officers and agents as he or she may designate.

(Ord. passed 9-8-2008)

§ 152.05 INSPECTIONS.

For the purpose of carrying out the intent of this chapter, the Housing Inspector, upon proper identification, is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and premises, including abandoned structures. The owners or occupants or every dwelling, dwelling unit, rooming unit, or rooming house, or the person in charge thereof, shall give the Housing Inspector free access to the dwelling, dwelling unit, rooming house or rooming unit, and its premises, at all reasonable times for the purposes of the inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of the 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 chapter or with any lawful order issued pursuant to the provisions of this chapter.

(Ord. passed 9-8-2008)

§ 152.06 PRELIMINARY INVESTIGATIONS; NOTICES; HEARINGS.

(A) Whenever a petition is filed with the Housing Inspector by a public authority or by at least 5 residents of the town charging that any dwelling is unfit for human habitation or whenever it appears to the Housing Inspector (on his or her own motion) that any dwelling is unfit for human habitation, the

Housing Inspector shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Housing Inspector (or his or her designated agent) at a place within the town therein fixed not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given 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; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Housing Inspector.

(B) Upon the issuance of a complaint and notice of hearing pursuant to this section, the Inspector may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing attached thereto, in the Office of the Clerk of Superior Court of the County, to be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. The Inspector shall cause a copy of the notice of lis pendens to be served upon the owners and parties in interest in the dwelling at the time of filing in accordance with G.S. § 160A-445, as applicable. Upon compliance with the requirements of any order issued based upon such complaint and hearing, the Inspector shall direct the Clerk of Superior Court to cancel the notice of lis pendens.

(Ord. passed 9-8-2008)

§ 152.07 DWELLING UNFIT FOR HUMAN HABITATION.

(A) The Housing Inspector shall determine that a dwelling is unfit for human habitation if he or she finds that any 1 of the following conditions exist in such dwelling:

(1) Interior walls or vertical studs which seriously list, lean or buckle to such an extent as to render the dwelling unsafe.

(2) Supporting member or members which show 33% or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which shows 50% or more of damage or deterioration.

(3) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

(4) Such damage by fire, wind or other causes as to render the dwelling unsafe.

(5) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people in the town.

(6) Inadequate facilities for egress in case of fire or panic.

(7) Defects significantly increasing the hazards of fire, accident or other calamities.

(8) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the town.

(9) Lack of proper electrical, heating or plumbing facilities required by this chapter which constitutes a definite health or safety hazard.

(10) Lack of connection to a potable water supply and/or to the public sewer or other approved sewage disposal system, the lack of either 1 of which renders a dwelling unfit for human habitation. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been "cut off" because of nonpayment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

(B) In addition to the ten conditions stated above, any 1 of which renders a dwelling unfit for human habitation, the Housing Inspector shall

determine that a dwelling is unfit for human habitation if he or she finds that a dwelling fails to fully comply with 7 or more of the following enumerated standards of dwelling fitness:

(1) *Structural standards.*

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

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

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

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

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

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

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

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

(i) *Floors.* There shall be no use of the ground for floors or wood floors on the ground.

(2) *Plumbing standards.*

(a) *Facilities.* Each dwelling unit shall contain not less than a kitchen, sink, lavatory, tub or shower, water closet, and an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been "cut off" because of non-payment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

(b) *Maintenance.* 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) *Accessible.* All required plumbing fixtures shall be located within the dwelling and be accessible to the occupants of the same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the use.

(3) *Heating standards.* Generally, every dwelling shall have facilities for providing heat in accordance with either division (a) or (b) below. Such facilities shall be maintained in a state of good repair and good working order.

(a) *Central and electrical heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling to which it is connected with a minimum temperature of 70°F measured at a point 3 feet above the floor during average winter conditions.

(b) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling shall be provided with sufficient electrical receptacles, fireplaces, chimneys, flues or gas vents

whereby heating appliances may be connected so as to heat all habitable rooms, bathrooms and water closet compartments with a minimum temperature of 70°F measured 3 feet above, the floor during average winter conditions.

(4) *Electrical standards.*

(a) *Wiring.* Every dwelling shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least 2 floor or wall type electrical convenience receptacles, connected in such manner as determined by the state Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least 1 supplied ceiling or wall type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least 3 floor or wall type electric convenience receptacles.

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

(c) *Maintenance.* All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the state Electric Code.

(5) *Ventilation standards.*

(a) *Generally.* Every habitable room shall have at least 1 window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light obstructions are located less than 5 feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight

type window in the top of such a room, the total window area of the skylight shall equal at least 15 % of the total floor area of the room.

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

(c) *Bathroom and water closet room.* Every bathroom equipped with more than 1 water closet compartment shall comply with the light and ventilation requirements for habitable rooms.

(6) *Space, use and location standards.*

(a) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the town Residential Building Code. (Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as a part of the floor area in computing the total area of the room to determine maximum permissible occupancy.) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next 3 occupants, and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by 1 occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than 1 occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over, and at least 35 square feet of floor area for each occupant under 12 years of age.

(b) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than 7 feet and 6 inches.

(c) *Cellar.* No cellar shall be used for living purposes unless:

1. The floor and walls are substantially watertight;

2. The total window area, total openable window area and ceiling height are equal to those required for a habitable room; and

3. The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the windows face a stairwell, window well or accessory.

(7) *Safe and sanitary maintenance standards.*

(a) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance of penetration of moisture or the weather.

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

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

(d) *Stairs porches and appurtenances.*

Every inside and outside stair, porch and any appurtenances thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(e) *Bathroom and kitchen floors.*

Every bathroom and kitchen floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in sound condition and good repair.

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

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

(h) *Smoke detector systems.* Every dwelling unit shall be provided with an approved listed smoke detector installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm. The detector shall be tested in accordance with and meet the requirements of UL 217, single and multiple station smoke detectors.

(8) *Insect, rodent and infestation control standards.*

(a) *Screens.* For protection against mosquitoes, flies and other insects every dwelling shall have:

1. Supplied and installed screens on every door opening leading directly from the dwelling to outdoor space. Except, that sliding doors, doors with self-closing devices, doors on mobile homes with self-closing devices and doors that open into rooms of living spaces that are artificially ventilated or air conditioned are exempt from this provision.

2. Supplied and installed screens on every window or other device with an opening to outdoor space, except that this requirement shall not apply for any room or rooms of a dwelling that are ventilated year round with an operable and installed heating and air conditioning system.

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

(c) *Infestation.* Every dwelling shall be maintained in a manner to be free of any infestation of insects, rodents or other pests. Every occupant of a dwelling 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 occupant of a dwelling unit in a dwelling containing more than 1 dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the only one infested. Whenever infestation exists in 2 or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing 2 or more dwelling units, extermination shall be the responsibility of the owner.

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

(e) *Garbage storage and disposal.* Every dwelling shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the Inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage container as required by town ordinances.

(9) *Rooming house standards.* All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter, 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 divisions:

(a) *Water closet, hand lavatory and bath facilities.* At least 1 water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each 4 rooms within a rooming house wherever such facilities are shared. All such facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway and shall not be more than 1 story removed from any of the persons sharing, the facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(b) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by 1 occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than 1 occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

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

(d) *Sanitary facilities.* Every water closet, flush urinal lavatory basin and bathtub or shower required by division (B)(9)(a) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

(C) Note: full compliance with a standard means that if any part of the stated standard is not complied with by a particular dwelling then that dwelling has failed to fully comply with the enumerated standard. For example, in regard to the standard in division (B)(2)(a), if all standards are met in a dwelling except that a supply of hot water is not provided, then the dwelling fails to fully comply with standard set forth in division (B)(2)(a).
(Ord. passed 9-8-2008)

§ 152.08 DWELLINGS NOT IN COMPLIANCE BUT NOT UNFIT FOR HUMAN HABITATION.

In any case where the Housing Inspector determines that a dwelling fails to fully comply with 1 or more but less than 7 of the above enumerated standards of dwelling fitness, such dwelling shall not be found to be unfit for human habitation and shall not be subject to the procedures and remedies as provided for in this chapter for dwellings unfit for human habitation. Each such failure of noncompliance, however, shall constitute a violation of the terms of this chapter and shall subject the violator to the penalties and enforcement procedures, civil or criminal or both, of § 10.99 of this code. In making the determination as described in this section, the Housing Inspector shall not be required to make notice and hold the hearing as called for in § 152.06, but the Housing Inspector may do so if the determination of the severity and classification of dwelling fitness is not clear to the Housing Inspector upon preliminary investigation.

(Ord. passed 9-8-2008)

§ 152.09 PROCEDURE AFTER HEARING; ORDER.

(A) If, after notice and hearing, the Housing Inspector determines that the dwelling under consideration is unfit for human habitation in accordance with the standards set forth above, he or she shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the dwelling can be made at a cost of less than 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, based upon the Housing Inspector's standards for closing dwellings; or

(2) If the repair, alteration or improvement of the dwelling cannot be made at a cost of less than 50% of the value of the dwelling, requiring the owner, within the time specified in the order, to repair, alter or improve the dwelling in order to render it fit for human habitation or to remove or demolish such dwelling.

(B) If, after notice and hearing the Housing Inspector determines that the dwelling under consideration is not unfit for human habitation but is not in full compliance with 1 or more standards of dwelling fitness as set forth above, he or she may proceed with the enforcement procedures of this code, civil or criminal or both.

(C) Whenever a determination is made pursuant to this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of the section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of the notice shall be given before removal or demolition by action of the Inspector, to allow the opportunity for any organization to negotiate with the

owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Inspector shall certify the mailing of the notices, and the certifications shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail the notices, and the sole remedy shall be an order requiring the Inspector to wait 45 days before causing removal or demolition.

(Ord. passed 9-8-2008)

§ 152.10 FAILURE TO COMPLY WITH ORDER.

(A) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Housing Inspector may:

(1) Cause the dwelling to be repaired, altered or improved or to be vacated and closed; or

(2) Cause to be posted on the main entrance of any such dwelling, 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 violation of this chapter.

(B) If the owner fails to comply with an order to repair, alter, or improve or remove or demolish the dwelling, the Housing Inspector may:

(1) Cause such dwelling to be vacated and removed or demolished; or

(2) Cause to be posted on the main entrance of any such dwelling, 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 violation of this chapter.

(C) The duties of the Housing Inspector set forth in divisions (A) and (B) of this section shall not be exercised until the Board of Aldermen shall have by

ordinance ordered the Housing Inspector to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the Housing Inspector shall have found to be unfit for human habitation and which property or properties 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. For the purposes of this division a period of 90 days following the date of the Housing Inspector's order shall constitute a reasonable opportunity. This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(D) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Housing Inspector 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. Ch. 160A, Art. 10. If the dwelling is removed or demolished by the Housing Inspector, he or she shall sell the materials of the dwelling, and any personal property, fixture or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Housing Inspector, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order of the decree of the Court.

(E) If any occupant fails to comply with an order to vacate dwelling, the Housing Inspector may file a civil action in the name of the town to remove that 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 persons occupying the 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 10 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 Housing Inspector produces the certified copy of an ordinance adopted by the Board of Aldermen pursuant to division (C) authorizing the Housing Inspector 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 paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the Board of Aldermen has ordered the Housing Inspector to proceed to exercise his or her duties under divisions (A), (B) and (C) of this section to vacate and close or remove and demolish the dwelling.

(F) If the Board of Aldermen shall have adopted an ordinance, or the Housing Inspector shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in § 152.09(A), and if the owner has vacated and closed the dwelling and kept the dwelling vacated and closed for a period of 1 year pursuant to the ordinance or order, then if the Board of Aldermen shall find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, moral, and welfare of the town in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would

attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in the town, then in such circumstances, the Board of Aldermen may, after the expiration of such 1-year period, enact an ordinance and serve the ordinance on the owner, setting forth the following:

(1) 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

(2) 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.

(G) This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the Housing Inspector shall effect the purpose of the ordinance.

(Ord. passed 9-8-2008)

§ 152.11 SERVICE OF COMPLAINTS AND ORDERS.

(A) Complaints or orders issued by the Housing Inspector pursuant to an ordinance adopted under this chapter, except those being prosecuted under the penalty section of this code, 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 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Housing Inspector in the exercise of reasonable diligence, and the Housing Inspector makes an affidavit to that effect, then the serving of the complaint or order upon the unknown 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 this chapter. 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. passed 9-8-2008)

§ 152.12 APPEALS.

(A) The Board of Adjustment is hereby appointed as the Housing Appeals Board to which appeals from any decision or order of the Housing Inspector may be taken. Except where this chapter provides for different rules or procedures, the Board of Adjustment acting as the Housing Appeals Board shall follow its rules of procedure, which may be amended to provide specifically for this function.

(B) An appeal from any decision or order of the Housing Inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the town. Any appeal from the Housing Inspector shall be taken within 10 days from the rendering of the decision or service of the order by filing with the Housing Inspector and with the Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Housing Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision

appealed from was made. When an appeal is from a decision of the Housing Inspector refusing to allow the person aggrieved thereby to do any such act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the Housing Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Housing Inspector certifies to the Board after the notice of appeal is filed with him or her, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than 1 day's written notice to the Housing Inspector, by the Board, or by a court of record upon petition made pursuant to division (E) of this section.

(C) The Board of Adjustment shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Housing Inspector, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Housing Inspector. The Board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the chapter, to adapt the application of the chapter to the necessities of the case to the end that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.

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

(E) Any person aggrieved by an order issued by the Housing Inspector or a decision rendered by the Board may petition the Superior Court for an injunction, restraining the Housing Inspector from carrying out the order or decision and the Court may, upon such petition, issue a temporary injunction restraining the Housing Inspector pending a final disposition of the cause. 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 within 20 days, and shall be given preference over other matters on the Court's 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 under this division.

(Ord. passed 9-8-2008)

§ 152.13 ALTERNATIVE REMEDIES.

(A) Nothing in this chapter 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 removal or abatement by summary proceedings or otherwise nor shall enforcement of 1 remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this chapter shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in § 10.99.

(B) No dwelling shall be hereafter erected, altered, moved, or changed in occupancy without a certificate of occupancy. In any case where the Housing Inspector, after notice and hearing as required herein, finds that a dwelling or dwelling unit is unfit for human habitation, he or she shall withhold issuance of a certificate of occupancy for the dwelling or dwelling unit until such time that he or she determines that it is fit for human habitation. In addition, in any case where the Housing Inspector, after preliminary investigation as provided for herein,

concludes, based upon that investigation, that a dwelling or dwelling unit is unfit for human habitation and believes that the occupancy of the dwelling or dwelling unit could cause imminent peril to life or property from fire or other hazards, he or she shall withhold issuance of a certificate of occupancy for the dwelling or dwelling unit until such time that he or she determines that it is fit for human habitation.

(C) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this chapter or of any valid order or decision of the Housing Inspector or Board made pursuant to any ordinance or code adopted under authority of this chapter, the Housing Inspector may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or occupancy, to restrain, correct or abate the violation, to prevent the occupancy of the dwellings, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

(Ord. passed 9-8-2008)

§ 152.14 CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision 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's jurisdiction shall prevail. The North Carolina Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this chapter.

(Ord. passed 9-8-2008)

§ 152.15 VIOLATIONS.

In addition to the conditions, acts or failures to act that constitute violations specified in this chapter above, 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 or vacate and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in the order. It shall be unlawful for the owner of any dwelling, with respect to which an order has been issued pursuant to § 152.09, 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 vacation and removal or demolition.

(Ord. passed 9-8-2008) Penalty, see § 10.99

CHAPTER 153: SUBDIVISION REGULATIONS

Section

153.01 Adoption by reference

§ 153.01 ADOPTION BY REFERENCE.

The subdivision regulations are hereby adopted by reference and incorporated herein as fully as if set out at length in this code of ordinances.

(Ord. 02-96, passed 2-6-1996; Am. Ord. 3-03, passed 4-1-2003; Am. Ord. 14-03, passed 9-2-2003)

CHAPTER 154: ZONING CODE

Section

154.01 Adoption by reference

§ 154.01 ADOPTION BY REFERENCE.

The zoning code of the town is hereby adopted by reference and incorporated herein as fully as if set out at length in this code of ordinances.

(Ord. 4-95, passed 8-1-1995; Am. Ord. 01-96, passed 2-6-1996; Am. Ord. 02-96, passed 2-6-1996; Am. Ord. 07-96, passed 8-6-1996; Am. Ord. 10-96, passed 11-5-1996; Am. Ord. 1-97, passed 1-7-1997; Am. Ord. 3-97, passed 6-3-1997; Am. Ord. 2-98, passed 4-7-1998; Am. Ord. 4-98, passed 6-23-1998; Am. Ord. 5-98, passed 10-6-1998; Am. Ord. 10-99, passed 12-7-1999; Am. Ord. 6-00, passed 6-27-2000; Am. Ord. 1-03, passed 1-7-2003; Am. Ord. 15-03, passed 10-7-2003)

CHAPTER 155: NONRESIDENTIAL BUILDING MAINTENANCE STANDARDS

Section

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GENERAL PROVISIONS

§ 155.01 TITLE.

This chapter shall be known as the "Nonresidential Building Maintenance Standards" for the Town of Long View, and may be cited as such, and will be referred to hereafter as "this chapter." (Ord. passed 10-12-2009)

§ 155.02 PURPOSE.

It is the purpose of the provisions of this chapter to provide a just, equitable and practicable method whereby nonresidential buildings and premises which from any cause, endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, diminish property values or detract excessively from the appropriate appearance of the area in which they are located, may be required to be repaired, closed, vacated or demolished. The provisions of this chapter are cumulative with and in addition to any other remedy provided by law including the current editions of standard codes adopted by the town.

(Ord. passed 10-12-2009)

§ 155.03 FINDINGS: AUTHORITY.

(A) Pursuant to G.S. § 160A-174, it is hereby found and declared that there exist in the town nonresidential buildings and premises which are unsafe and especially dangerous to life because of liability to fire or because of bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress and other causes.

(B) In addition, it is hereby found and declared, that there exist in the town nonresidential buildings and premises which, although not meeting the classification of unsafe and especially dangerous to life, fail to fully comply with all the minimum standards for nonresidential buildings and premises fitness as established herein and, therefore, have present one or more conditions which are inimical to the public health, safety and general welfare. Such conditions, if not corrected, can lead to deterioration and dilapidation of nonresidential buildings and premises which render them unsafe and especially dangerous to life.

Ord. passed 10-12-2009)

§ 155.04 SCOPE; JURISDICTION.

The provisions of this chapter shall apply to all existing nonresidential buildings and premises and to all nonresidential buildings and premises hereafter constructed within the town limits, as now or hereafter established.

(Ord. passed 10-12-2009)

§ 155.05 GENERAL DEFINITIONS AND INTERPRETATIONS.

Unless specifically defined in § 155.06, words used in this chapter shall have their respective customary dictionary definitions. For the purpose of these regulations certain words, terms or phrases used herein are interpreted and defined as follows.

(A) Words used in the present tense shall include the future tense.

(B) Words used in the singular shall include the plural and words used in the plural shall include the singular.

(C) The words *SHALL* and *WILL* always indicate mandatory; the words *SHOULD* and *MAY* always indicate optional.

(D) The word *LOT* includes the words *PLOT* and/or *PARCEL*.

(E) The word *BUILDING* includes the word *STRUCTURE*.

(F) The word *PERSON* includes a firm, association, organization, partnership, trust, company, corporation and/or individual.

(G) The word *USE* includes the terms *ARRANGED*, *DESIGNED*, and/or *INTENDED* for a use, activity and/or purpose.

(H) The term **BOARD OF ADJUSTMENT** shall always indicate the Board of Adjustment of the town as created and appointed by the Town Board of Aldermen of said town.

(I) The term **BOARD OF ALDERMEN** shall always indicate the Town Council of the town.
(Ord. passed 10-12-2009)

§ 155.06 SPECIAL DEFINITIONS AND INTERPRETATIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter.

BUILDING. Any covered structure intended for shelter, housing or enclosure of persons, animals, facilities, equipment or chattels, the term **BUILDING** shall be construed to include the term **STRUCTURE**. Furthermore, it shall be construed as if followed by the term "or part thereof."

BUILDING, ACCESSORY. A detached subordinate building located on a lot, parcel or tract whose use is incidental to that of the principal building. A building cannot be considered accessory unless it accompanies a principal building on the same lot, parcel or tract.

BUILDING, PRINCIPAL. A building in which the principal use of the lot, parcel or tract is conducted.

BUILDING OF HISTORICAL VALUE. A building within the town which is listed on the National Register, or constituting special significance to the general citizenry of the town due to age, history, architectural design, human occurrence, culture and possessing integrity of design, setting, materials, feeling and association.

BUILDING CODE. The North Carolina State Building Code.

DETERIORATION. The condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, rusting, peeling paint or other evidence of physical decay or loss of structural integrity.

FIRE HAZARD (See also NUISANCE). Any thing or act which increases, or may cause an increase of, the hazard, likelihood or menace of fire to a greater degree than reasonable for the conduct of the nonresidential use on the premises, or which may unreasonably obstruct, delay, or hinder, or may unreasonably become the cause of an obstruction, a delay, a hazard or an unreasonable hindrance to the prevention, suppression or extinguishment of fire.

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

INFESTATION. The haunting or overrunning by rats, snakes, birds, insects or other destructive vermin or animals that endanger the public health and safety.

NONRESIDENTIAL BUILDING MAINTENANCE STANDARDS INSPECTOR. The person delegated as such by the Board of Alderman of the town (hereinafter referred to as "the Inspector").

NUISANCE.

(1) Any public nuisance known in common law or in equity jurisprudence, or as provided by the statutes of the State of North Carolina, or the ordinances of the town; or

(2) Any condition including an attractive nuisance which may prove detrimental to human health or safety whether in a building, on the premises of a building, or part of a building or upon an occupied lot; or

(3) Physical conditions dangerous to human life or detrimental to health of persons in, on or near the premises where the condition exists; or

(4) Unsanitary conditions or conditions that are dangerous to public health, well-being or the general welfare; or

(5) Fire hazards or other safety hazards.

OCCUPANT. Any person who has charge, care or control of a nonresidential building and/or premises or a part thereof, whether with or without the knowledge and consent of the owner, or any person, individually or jointly, entitled to possession regardless of whether the building and/or premises are actually occupied or not.

OWNER. The holder of the title in fee simple and every mortgagee of record of a property.

PHYSICAL VALUATION. The estimated cost to replace a building in kind.

PLUMBING. All of the following supplies, facilities and equipment: gas pipes, gas burning equipment, water pipes, water heaters, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, vents and other similar fixtures, together with all connections to water, sewer or gas lines, and water pipes and lines utilized in conjunction with HVAC equipment.

PREMISES. A lot, plot or parcel of land including the buildings or structures thereon, under control by the same owner or occupant, devoted to or zoned for nonresidential use.

PUBLIC SANITARY SEWER. Any sanitary sewer owned, operated and maintained by the town and available for public use for the disposal of sewage.

RUBBISH. Combustible and noncombustible waste materials, except garbage and ashes, including, but not limited to, paper, rags, cartons, boxes, wood,

excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

SEWAGE. Waste from a flush toilet, bathtub, sink, lavatory, dishwashing or laundry machine, or water-carried waste from any other fixture, equipment or machine.

STRUCTURALLY SOUND. Substantially free from flaw, defect, decay or deterioration to the extent that such structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

STRUCTURE. Anything constructed or erected which requires location on the ground. (Refer to the definition of **BUILDING** herein.)

SUPPLIED. Paid for, furnished or provided by, or under control of, the owner or occupant.
(Ord. passed 10-12-2009)

§ 155.07 DUTIES AND RESPONSIBILITIES OF THE OWNER.

It shall be the duty and responsibility of the owner to maintain all nonresidential buildings and premises in accordance with all standards for nonresidential buildings and premises fitness as stated herein.

(Ord. passed 10-12-2009)

§ 155.08 DUTIES AND RESPONSIBILITIES OF THE OCCUPANT.

It shall be the duty and responsibility of the occupant to ensure that:

(A) All parts of the premises under the control of the occupant shall be kept in a safe, clean and sanitary condition consistent with the nonresidential use and

the occupant shall refrain from performing any acts which would render any parts of the building or premises unsafe or unsanitary or which would obstruct any adjacent owner/occupant from performing any duty required, or from maintaining his building or premises in a safe and sanitary condition.

(B) Every occupant shall be responsible for the elimination of infestation in and on the premises, subject to his control.

(C) Every occupant shall maintain all supplied plumbing fixtures in a safe and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(D) No garbage or solid waste shall be stored or allowed by the occupant to accumulate on the premises unless contained in a trash receptacle(s) which is in accordance with the Code of Ordinances of the Town of Long View.

(E) Damage to public sidewalks and/or curb and gutter located in the public right-of-way shall be repaired or replaced at no expense to the town when such damage is caused by vehicle deliveries to the nonresidential use under the control of the occupant.

(F) Where the owner would not otherwise know of a defect of any facility, utility or equipment required to be furnished hereunder and the same is found to be defective or inoperable, the occupant affected thereby shall, upon learning of such defect, provide notice to the owner.
(Ord. passed 10-12-2009)

§ 155.09 RELATIONSHIP OF DUTIES AND RESPONSIBILITIES TO OCCUPANCY.

The provisions of this chapter that apply to the exterior or exterior components of a structure or building or to the premises shall be complied with whether the structure or building is occupied or vacant. All unoccupied or vacant structures or

buildings shall be secured by their owners to prevent the entry of unauthorized persons or the formation of nuisance conditions such as infestation.
(Ord. passed 10-12-2009)

§ 155.10 VALIDITY.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Board of Aldermen hereby declares that it would have passed this chapter and each section, subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses or phrases be declared invalid.
(Ord. passed 10-12-2009)

§ 155.11 CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the jurisdiction shall prevail. The North Carolina State Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this chapter.
(Ord. passed 10-12-2009)

§ 155.12 AMENDMENTS.

The Board of Aldermen may, from time to time amend, supplement, or change the provisions and requirements of this chapter. Any such amendment shall be by ordinance of the Board of Aldermen.
(Ord. passed 10-12-2009)

***STANDARDS FOR NONRESIDENTIAL
BUILDINGS AND PREMISES FITNESS***

**§ 155.13 UNLAWFUL TO OWN UNSAFE
BUILDINGS AND STRUCTURES.**

(A) It shall be unlawful for any firm, person or corporation to own a building or a structure situated in the jurisdiction of the town which is in such a defective or hazardous condition that it is unsafe and especially dangerous to life. The Board of Alderman has determined that unsafe and especially dangerous buildings and structures are detrimental to the health, safety and welfare of the citizens of the town, that such unsafe and especially dangerous buildings and structures shall be condemned, and that the owners of such unsafe and especially dangerous buildings and structures shall immediately remedy the unsafe, dangerous, hazardous or unlawful conditions or demolish such buildings or structures.

(B) A building or structure shall be found to be especially dangerous to life and held unsafe by the Inspector if the Inspector finds that any one of the following conditions exists in such building or structure:

(1) Interior walls or vertical studs which seriously list, lean or buckle to an extent as to render the building unsafe.

(2) Supporting member or members which show 33% or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which shows 50% or more of damage or deterioration.

(3) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

(4) Such damage by fire, wind or other causes as to render the building unsafe.

(5) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people of the jurisdiction.

(6) Inadequate facilities for egress in case of fire or panic.

(7) Defects significantly increasing the hazards of fire, accident or other calamities.

(8) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the jurisdiction.

(9) Lack of proper electrical, heating or plumbing facilities required by this chapter which constitutes a health or a definite safety hazard.

(10) For any building whose occupancy classification requires it, lack of connection to a potable water supply and/or to the public sanitary sewer or other approved sewage disposal system. For the purposes of this standard, a building is not connected to a potable water supply if the water supply has been "cut off" because of nonpayment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

(11) Any violation of the State Fire Prevention Code which constitutes a condition which is unsafe and especially dangerous to life.

(12) Any abandoned nonresidential building which is found to be a health or safety hazard by the Inspector 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.

(C) In addition to conditions (B)(1) through (12) above, any one of which renders a building or

structure unsafe, the Inspector shall determine that a nonresidential building or structure is unsafe if he finds that a building or structure fails to fully comply with any 5 or more of the following enumerated standards of building and premises fitness. Full compliance with a standard means that if any part of the stated standard is not complied with by a particular building and premises, then that building and premises has failed to fully comply with the enumerated standards.

(1) *General.*

(a) Buildings and premises shall be kept clear of accumulations of garbage, trash, or rubbish which create health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary way.

(b) Flammable, combustible, explosive or other dangerous or hazardous materials shall be stored in a manner approved for such materials and consistent with the State Fire Prevention Code.

(c) Buildings and premises shall be kept free of loose and insufficiently anchored overhanging objects which constitute a danger of falling on persons or property.

(d) The premises shall be kept free of insufficiently protected holes, excavations, breaks, projections, obstructions and other such dangerous impediments on and around fences, walls, walks, driveways, parking lots and other areas which are accessible to and generally used by persons on the premises.

(e) Buildings and premises surfaces shall be kept clear of cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic or other dangerous objects or similar hazardous conditions exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration.

(f) Buildings and premises shall be kept free of objects and elements protruding from building walls, roof or premises which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conditions, wires, sign brackets and other brackets, and similar objects.

(2) *Appurtenances.*

(a) All chimneys, flues and vent attachments thereto shall be maintained structurally sound. Chimneys, flues, gas vents or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases.

(b) All exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair, and free of defects.

(c) All cornices shall be made structurally sound. Rotten or weakened portions shall be removed and/or replaced. All exposed wood shall be treated or painted.

(d) Gutters and down spouts shall be replaced or repaired as necessary and shall be appropriately located and securely installed so as not to cause a hazard to pedestrians, vehicular traffic or property.

(e) Attached and unattached accessory structures shall be maintained in a state of good repair.

(f) Advertising sign structures, attached or freestanding, awnings, marquees and their supporting members and other similar attachments and structures shall be maintained in good repair and shall not cause a nuisance or safety hazard.

(3) *Structural.*

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

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

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

(d) Interior steps, railings, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fall or collapse.

(e) Where a wall of a building has become exposed as a result of demolition of an adjacent building said wall must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall unless such doors, windows, vents or other similar openings are to be maintained in accordance with the provisions of this chapter. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked so as not to detract from the aesthetics and value of adjacent property and weatherproofed if necessary to prevent deterioration of the wall.

(4) *Plumbing, electrical and supplied facilities.*

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

(b) All electrical fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the State Electric Code.

(c) Every supplied facility, piece of equipment or utility which is required under this chapter or the State Building Code for occupancy or use shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(5) *Egress.*

(a) Facilities for egress in case of fire or panic shall be adequate and shall remain clear for such purposes.

(b) All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints, or broken or loose mullions.

(c) All windows shall be maintained free of broken glass that could be dangerous to the public, invitees or third parties ordinarily expected to use the premises, from falling or shattering.

(d) All openings originally designed as windows shall be maintained as windows, unless specifically approved by the Inspector for enclosure.

(6) *Drainage.*

(a) All yards and premises shall be properly graded and maintained so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
(Ord. passed 10-12-2009)

§ 155.14 BUILDINGS AND PREMISES NOT DECLARED UNSAFE BUT WHICH ARE NOT IN COMPLIANCE WITH ALL STANDARDS.

In any case where the Inspector determines that a nonresidential building and/or premises fails to fully comply with one or more but less than 5 of the standards of nonresidential buildings and premises fitness set forth in § 155.13(C) such building and/or premises shall not be found to be unsafe and shall not

be subject to the procedures and remedies as provided for in this chapter for unsafe buildings and premises. Each such failure of noncompliance, however, shall constitute a violation of the terms of this chapter and shall subject the violator to the penalties and enforcement procedures, civil or criminal or both, of § 155.29. In such case the Inspector shall notify the owner as provided for in § 155.19.
(Ord. passed 10-12-2009)

PROCEDURES FOR ENFORCEMENT

§ 155.15 UNSAFE BUILDINGS SHALL BE CONDEMNED BY THE INSPECTOR.

If a building or structure shall appear to the Inspector to be especially dangerous to life and unsafe under § 155.13, the Inspector shall:

(A) Make a written findings that the building or structure appears to be unsafe and is condemned; and

(B) Affix a condemned notice of the dangerous character or conditions of the building or structure to a conspicuous place on the exterior wall of such building or structure.
(Ord. passed 10-12-2009)

§ 155.16 REMOVAL OF CONDEMNATION NOTICE UNLAWFUL.

It shall be unlawful for any person to remove a condemned notice from a building or structure after such condemned notice has been affixed to it by the Inspector pursuant to the provisions of § 155.19.
(Ord. passed 10-12-2009)

§ 155.17 COMPLAINT AND NOTICE OF HEARING.

(A) If a building or structure has been condemned by the Inspector as unsafe pursuant to § 155.15, the Inspector should serve the owner with a written complaint and notice of hearing which notice shall state that:

(1) The building or structure is condemned due to its condition that appears to constitute a fire or safety hazard or appears to be dangerous to life, health or other property and that it is held to be unsafe; and

(2) A hearing will be held before the Inspector at a designated place and time, which time should be not less than 10 days nor more than 30 days after the date of such notice, and that at such hearing the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) Following the hearing, the Inspector may issue such order to repair, close, vacate or demolish the building or structure as the Inspector deems to be appropriate under the existing conditions.

(B) Upon the issuance of a complaint and notice of hearing pursuant to this section, the Inspector may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing attached thereto, in the office of the Clerk of Superior Court of Catawba or Burke County, as applicable, to be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. The Inspector shall cause a copy of the notice of lis pendens to be served upon the owner of the building or structure at the time of filing in accordance with G.S. § 160A-428 as applicable. Upon compliance with the requirements of any order issued based upon such complaint and hearing, the Inspector shall direct the Clerk of Superior Court to cancel the notice of lis pendens.
(Ord. passed 10-12-2009)

§ 155.18 ORDER TO TAKE CORRECTION ACTION; CONTENTS; ISSUANCE.

(A) If, upon a hearing held pursuant to the notice prescribed in § 155.17, the Inspector shall find that the building or structure is in an unsafe condition which constitutes a fire or safety hazard or renders it dangerous to life, health or other property, the Inspector shall issue an order in writing, directed to the owner or owners of such building or structure, directing the owner or owners to remedy the defective condition by repairing, closing, vacating or demolishing the building or structure or taking other necessary steps within such a period as the Inspector may prescribe, which period may not be less than 60 days from the service of the order, provided that, where the Inspector finds that there is imminent danger to life, health or other property, the order may require that corrective action be taken in such lesser period as may be feasible.

(B) Buildings of historical value may be granted exemption from this section by the Board of Adjustment. In granting an exemption the Board must make a finding that the building is a building of historical value to the town, that the owner will repair the damage on a timely basis, with compliance not to exceed 6 months, and that the building will be reconstructed and/or repaired in such a way as to keep the historical character of the building.
(Ord. passed 10-12-2009)

§ 155.19 SERVICE OF WRITTEN NOTICE OR ORDER OF INSPECTOR.

In any case where this chapter requires service of a written notice or order by the Inspector, such notice or order shall be made in the following manner:

(A) The written notice or order shall be served upon each owner by mailing the same by certified or registered mail, return receipt requested, and first class mail, to the owner's last known address or by personal service of the notice or order upon each owner.

(B) If the name or whereabouts of an owner are unknown and cannot after due diligence be discovered, the notice or order shall be considered properly and adequately served upon such owner if a copy thereof is posted on the outside of the building or structure in question at least 10 days prior to the hearing. If a hearing is required, and a notice of the hearing published in a newspaper having general circulation in the jurisdiction at least once not later than 1 week prior to the hearing.
(Ord. passed 10-12-2009)

§ 155.20 APPEAL OF ORDER OF INSPECTOR; FINALITY IF NOT APPEALED.

Any owner who has received an order under § 155.17 may appeal from the order to the Board of Adjustment by giving notice of appeal in writing to the Inspector and to the Town Clerk within 10 days following issuance of the order. In the absence of an appeal to the Board of Adjustment within the prescribed time, the order of the Inspector shall be final. The Board of Adjustment shall hear appeals within a reasonable time after receipt of the notice of appeal and it may modify and affirm or revoke the order.
(Ord. passed 10-12-2009)

§ 155.21 FAILURE TO COMPLY WITH ORDER OF INSPECTOR.

It shall be unlawful for the owner of a building or structure to fail to comply with an order issued pursuant to § 155.18 from which no appeal has been taken or fail to comply with an order of the Board of Adjustment following an appeal, unless the owner shall, within 10 days following issuance of the order by the Board of Adjustment, appeal from that order as by law provided.
(Ord. passed 10-12-2009)

§ 155.22 REMEDIES; LIEN FOR COST OF DEMOLITION AND REMOVAL.

(A) In the event of such failure to comply, in addition to the penalties, remedies and enforcement procedures contained in § 10.99 and § 155.29, the Inspector may cause such building and premises to be repaired, closed, vacated or demolished as appears appropriate.

(B) The Inspector, however, shall not take such action until the Town Aldermen shall have by ordinance ordered the Inspector to proceed with such action with respect to the particular property or properties which the Inspector shall have found to be unsafe or not in compliance with all standards of nonresidential building and premises fitness and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a building until the owner has first been given a reasonable opportunity to bring it into conformity with this chapter. The ordinance adopted pursuant to this section shall be recorded in the office of the Register of Deeds of the appropriate county and shall be indexed in the name of the property owner or owners in the grantor index.

(C) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Inspector 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 a lien for special assessments provided in G. S. Chapter 160A, Article 10. If the building is removed or demolished by the Inspector, he shall sell the materials of the building, and the personal property, fixtures or appurtenances found in or attached to the building, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Inspector, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order of the decree of the Court.

(Ord. passed 10-12-2009)

§ 155.23 FAILURE OF OCCUPANT TO COMPLY WITH ORDER TO VACATE.

If any occupant fails to comply with an order to vacate a building, the Inspector may file a civil action in the name of the town to remove such occupant. The action to vacate the building shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any persons occupying such building. 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 10 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 Inspector produces a certified copy of an ordinance adopted by the Town Aldermen pursuant to this section authorizing the Inspector to proceed to vacate the occupied building, the magistrate shall enter judgement ordering that the premises be vacated and that all persons be removed. The judgement ordering that the building be vacated shall be enforced in the same manner as the judgement for summary ejectment entered under G. S. § 42-30. An appeal from any judgement entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgement may be stayed as provided in G. S. § 7 A-227. An action to remove an occupant of a building who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this section unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the Town Aldermen has ordered the Inspector to proceed to exercise his duties under this section to vacate and close or remove and demolish the building. (Ord. passed 10-12-2009)

§ 155.24 DEMOLITION OF NONRESIDENTIAL BUILDINGS BY OWNER.

Where a nonresidential building is under the jurisdiction of this chapter, the building may be

demolished by the owner provided that the following requirements are met:

(A) The owner obtain a demolition permit from the Inspections Department of Catawba or Burke County;

(B) All sewer, gas, water and similar taps or connections be properly closed and disconnected;

(C) All debris from the building be removed from the site. This requirement is for the removal of all debris that is above the street level of the building;

(D) The lot be graded to a smooth, even, finished grade, free from building material, debris, holes, and/or depressions. Where building debris remains on the site below street level, the owner must back fill the lot with 12 inches of clean fill which shall be graded to a smooth, even finished grade;

(E) Where walls of adjacent buildings become exposed as a result of the demolition, said walls must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall, unless such doors, windows, vents, or other similar openings are to be maintained in accordance with the provisions of this chapter. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked so as not to detract from the aesthetics and value of the adjacent property and weatherproofed if necessary to prevent deterioration of the wall.

(Ord. passed 10-12-2009)

ADMINISTRATION

§ 155.25 OFFICE OF THE NONRESIDENTIAL BUILDING MAINTENANCE STANDARDS INSPECTOR CREATED; POWERS AND DUTIES.

(A) For the purposes of administering and enforcing the provisions of this section the office of Nonresidential Building Maintenance Standards Inspector, (herein called "Inspector"), is hereby created.

(B) The Inspector shall be appointed by the Board of Aldermen shall take and subscribe to the oath of office administered by the Town Clerk, and shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

(1) To investigate the nonresidential building conditions in the jurisdiction in order to determine which buildings therein are unsafe, being guided in such examinations of buildings by the requirements set forth in this chapter and for the purpose of carrying out the objectives of this chapter with respect to such nonresidential buildings.

(2) To administer oaths and affirmations and to examine witnesses and receive evidence.

(3) To enter upon and within premises and buildings for the purpose of making examinations and investigations, provided that such entries shall be made at reasonable hours in such a manner as to cause the least possible inconvenience to the persons in possession.

(4) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

(Ord. passed 10-12-2009)

§ 155.26 INSPECTIONS.

(A) For the purpose of carrying out the intent of this chapter, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all nonresidential buildings and premises, including abandoned structures. The owner or occupant of every nonresidential building or the person in charge thereof, shall give the Inspector free access to such building and its premises, at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a nonresidential building shall give the owner thereof, or his agent or employee, access to any part of such building 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 chapter or with any lawful order issued pursuant to the provisions of this chapter.

(B) The Inspector may make periodic inspections for unsafe, unsanitary or otherwise hazardous and unlawful conditions in nonresidential structures within the jurisdiction. In addition, he may make inspections when he has reason to believe that such conditions may exist in a particular structure or premises.
(Ord. passed 10-12-2009)

§ 155.27 DEFECTS IN BUILDINGS TO BE CORRECTED.

When the Inspector finds any defects in a nonresidential building, or finds that a building has not been constructed in accordance with applicable state and town laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his duty to notify the owner or occupant of the building of its defects, hazardous conditions or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions or violations of law in the property he owns. Failure to do so shall constitute

a violation of this chapter. Each day any violation of this chapter shall continue shall constitute a separate offense.

(Ord. passed 10-12-2009)

§ 155.28 VIOLATIONS.

In addition to the conditions, acts or failure to act that constitute violations specified in this chapter, it shall be unlawful for the owner of any building and premises to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. It shall be unlawful for the owner of any building, with respect to which an order has been issued pursuant to § 155.18, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition.
(Ord. passed 10-12-2009)

§ 155.29 PENALTIES FOR VIOLATIONS; ALTERNATIVE REMEDIES.

In addition to other penalties and remedies provided by this chapter, violation of this chapter shall constitute either a misdemeanor punishable by fine or imprisonment as provided by G.S. § 14-4, as amended, or at the election of the town, shall subject the offender to a civil penalties, remedies, and enforcement procedures contained in § 10.99.
(Ord. passed 10-12-2009)

