

MONTREAT CODE OF GENERAL ORDINANCES

CHAPTER J -- BUILDING CODES

ARTICLE I: GENERAL BUILDING REGULATIONS

(Revised 10/08/2009)

Section 1. Building Inspector. The Building Inspector shall be appointed by the Board of Commissioners and shall possess all the powers conferred and perform all the duties prescribed by N.C. G.S. § 160A-412 and other statutes applicable thereto. The Inspector shall possess such further powers and perform such further duties as may be prescribed by this Chapter. The Inspector shall receive the fees allowed by Statute and prescribed under the Town Fee Schedule. The said Inspector or his/her deputy shall have the right to enter, at all reasonable times, any building or structure within the Town, for the purpose of inspecting or in the performance of his/her duties. The Inspector shall make, or cause to be made, such inspection of all chimneys, flues, steam and fire openings within the Town. The Inspector may, when occasion requires, appoint a deputy or deputies, to perform any part of his/her duties.

Section 2. Building Permit Required. It shall be unlawful for any Person or Entity to hereafter erect, construct or build, structurally repair, replace or alter or cause or authorize the same any building or structure on any lot or parcel of land within the Town and the unincorporated Buncombe County inside the extraterritorial jurisdiction of Montreat, without and until such Person or Entity first submits to the Building Inspector a duly signed and completed application for a building permit. The application shall be accompanied by plans and specifications for the proposed building or structure, the material to be used, the proposed location thereof, the purposes for which the building or structure is to be used, the estimated cost of the project, and any other information that will enable said Building Inspector to properly evaluate the application. No permit shall be required for repairs to a single-family residence with construction costs less than \$5,000 unless the work involves: the addition, repair or replacement of load-bearing structures; the addition, repair, replacement or change in the design of plumbing systems; the addition, repair or replacement of heating, air-conditioning or electrical wiring, devices, appliances or equipment; the use of materials not permitted by currently adopted North Carolina Residential Code; or the addition (excluding replacement, up to the \$5,000 limit as provided herein, of like-grade fire resistance) of roofing.

Section 3. State Building Code Adopted. All rules and regulations adopted by the State of North Carolina as the current effective edition of North Carolina State Building Code as referenced by the North Carolina Department of Insurance – Office of State Fire Marshall for the proper construction and erection of all buildings as provided in the N.C.G.S. § 143-136 through 143-143.2, are hereby adopted by reference and shall control general construction the same as if set out at length herein, except as amended or modified in this Chapter. North Carolina State Building Code includes: NC Administrative Code and Policies, NC Building Code, NC Residential Code, 2006 NC Rehabilitation Code, 1995 Existing Buildings Code; NC Accessibility Code Vol. 1-C (including current amendments), NC Electrical Code (current edition NFPA 70 – National Electrical Code), NC Energy Conservation Code, State of North Carolina Regulations for Manufactured Homes, and NC Fire Code. The North Carolina State

Building Code Council may revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, state agency or political subdivision of the State. In adopting any amendment, the Council shall comply with the same procedural requirements and standards set forth in N.C.G.S. §143-138 for adoption of the Code, and such adoption shall be the current effective edition of the Code regulating general construction for the Town, except as modified or amended in this Chapter.

Section 4. Green Building Incentive. Applicants for a building permit may provide documentation that the proposed design(s) and construction practices will pursue Leadership in Energy and Environmental Design (LEED) certification as approved by the U. S. Green Building Council, a one Globe or higher rating under the Green Globes program standards adopted by the Green Building Initiative, EarthCraft House certification, National Association of Home Builders (NAHB) Green Home certification, or equivalent nationally or state recognized certification or rating system with third-party verification of sustainable building practices. Such applications are eligible for a partial rebate of permit fees dependant upon the level of certification achieved and/or extent of sustainable practices utilized. Additional incentives exist for other measures utilized as follows:

The total per-trade inspection fee(s) associated with the following shall be waived in the form of a refund offered to applicants providing as-built verification of:

- Installation of Geothermal Heat Pump Systems
- Solar Energy Systems (Either Photovoltaic (PV) or Hot Water)
- Vertical-Axis Wind Turbines
- Stormwater or Graywater Collection/Recycling Systems

A 10% reduction in associated permit fees for construction projects shall be approved by the Building Inspector if utilizing:

- Approved Clear Water Contractors
- HealthyBuilt Home Certification
- Mountain Council for Accountable Development (MCAD) Certified Developers
- Low Impact Development (LID) Design Concepts

Proof of LEED certification shall provide a partial rebate of associated permit fees. The rebates increase proportionate to the level of certification achieved:

- 10% Rebate for LEED Certified
- 15% Rebate for LEED Silver
- 20% Rebate for LEED Gold
- 25% Rebate for LEED Platinum

Projects providing proof of equivalent nationally or state recognized certification or rating systems with third-party verification of sustainable building practices are also eligible for comparable rebates proportionate to level of certification. Regular fees shall be paid in full upon approval and rebated following certification. The use of developers or builders with multiple, or overlapping, areas of training and credentials does not accrue cumulative rebates, so the desired rebate or fee reduction must be specified during application for permit(s).

Section 5. Fuel Storage Tank. Any storage tank for gasoline, oil or other combustible or inflammable materials shall meet the requirements of the North Carolina Building Code and NFPA standards. The time frame to bring existing tanks into compliance with this Ordinance is five years from the date of adoption of this Ordinance.

ARTICLE II: CONDEMNATION

~~Section 1. Inspection of Dangerous Buildings or Structures. Whenever the Board is informed that any building or other structure, within the Town is especially dangerous in case of fire, by reason of the bad condition of walls, defective construction, decay, or other causes, or is so situated as to endanger the lives of Persons passing by or residing in the vicinity thereof, they shall forthwith require the Building Inspector, together with the Mayor, to make a survey of said building, or structure, and report to them their opinion of the same.~~

MINIMUM HOUSING REGULATIONS

Section 1. Finding; Purpose.

(A) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the Town of Montreat 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 the dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the Town.

(B) In order to protect the health, safety and welfare of the residents of the Town as authorized by Part 6 of Article 19, Chapter 160A of the General Statutes, it is the purpose of this article 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.

Section 2. Definitions.

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

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

(B) *Boarding house* shall mean a dwelling unit or part thereof where, for compensation, lodging and meals are provided.

(C) *Cellar* shall mean a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

(D) *Deteriorated* shall mean that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this article, at a cost not in excess of 50 percent of its appraised value, as determined by finding of the Inspector.

(E) *Dilapidated* shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50 percent of its appraised value, as determined by finding of the Inspector.

(F) *Dwelling* shall mean any Building, or portion thereof, which is designed for living and/or sleeping purposes for one or more families.

(G) *Dwelling, Single-Family* shall mean a detached dwelling unit, other than a mobile home, designed for or occupied exclusively by one family, except for Vacation/Conference Rentals as allowed in Chapter H, Article II of the General Ordinances of the Town of Montreat.

1) *Dwelling, Two-Family* shall mean a detached Building including two individual dwelling units.

2) *Dwelling, Multi-Family* shall mean a dwelling intended or used for occupancy by three or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

(H) *Dwelling Unit* shall mean a single unit providing complete, independent living facilities for one or more persons including permanent facilities for living, sleeping, eating, cooking, and sanitation.

(I) *Extermination* shall mean 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 Inspector.

(J) *Garbage* shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(K) *Habitable room* shall mean 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.

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

(M) *Inspector* shall mean a Building Inspector of the Town or any agent of the Inspector who is authorized by the Inspector.

(N) *Let* shall mean to rent to another for money or other valuable consideration.

(O) *Net Free Ventilation Area* shall mean the combined product of unobstructed clear opening dimensions that permit the free flow of required ventilation air.

(P) *Occupant* shall mean any person over one (1) year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

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

(R) *Owner* shall mean any person who alone, jointly, or severally with others:

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

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

(S) *Plumbing* shall mean and include all of the following supplied facilities and equipment: Gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bath tubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

(T) *Public Authority* shall mean the Town Board of Commissioners or any officer who is in charge of any department or branch of the government of the Town or of Buncombe County or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the Town.

(U) *Rooming unit* shall mean 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.

(V) *Rubbish* shall mean combustible and noncombustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

(W) *Supplied* shall mean paid for, furnished, or provided by, or under the control of, the owner or operator.

(X) *Temporary housing* shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

(Y) *Unfit for human habitation* shall mean that conditions exist in a dwelling which violate safety standards for sanitary condition, structural integrity or pose a fire hazardous condition or which do not comply with one (1) or more of the minimum standards of fitness listed in sections 4, 5, 6(B) and 8 of this article.

(Z) *Meaning of certain words.* Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

Section 3. Minimum Standards of Fitness for Dwellings and Dwelling Units: Applicability and Exemptions.

(A) *Minimum Standards of Fitness.* Every dwelling and dwelling unit, or portion thereof, determined to be unfit for human habitation due to unsafe or unsanitary condition, structural defect, or fire hazardous condition, shall be corrected so as to comply with minimum standards of fitness for human habitation and all of the requirements of sections 4, 5, 6(B) and 8 of this article. No person shall occupy any dwelling or dwelling unit which does not comply with minimum standards of fitness for human habitation and the requirements of sections 4, 5, 6(B) and 8 of this article.

(B) *Improvements to Existing Dwellings or Dwelling units.* No existing dwelling or dwelling unit, if properly maintained so as to comply with the minimum standards of fitness as a human habitation listed above shall be required to meet all of the provisions of this section. When improvements are made to existing dwellings or dwelling units, and the scope of work involves addition to - or reconfiguration of - space including habitable room(s), all new construction, rehabilitation or renovation shall be required to bring the addition or reconfigured portion(s) of the existing dwelling into full compliance with the provisions of this section.

Section 4. Minimum Standards for Structural Condition.

(A) Walls, partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle; and shall not be rotted, deteriorated, or damaged.

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

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

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

(G) 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) 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. Chimneys that do not meet these standards shall either be repaired or sealed so as to prevent unsafe operation as a fuel-burning appliance.

(I) There shall be no use of the ground for floors, or wood floors on the ground.

Section 5. Minimum Standards for Basic Equipment and Facilities.

(A) *Plumbing system.*

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

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

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

(iv) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) *Heating system.* Every dwelling and dwelling unit utilized year-round or beyond the six month period of April through September for habitation shall have facilities for providing heat in accordance with either (i) or (ii) below:

(i) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity so as to maintain all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected at a minimum temperature of 68 degrees Fahrenheit measured at a point three (3) feet above the floor and two (2) feet from exterior walls during ordinary winter conditions.

(ii) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to maintain all habitable rooms at a minimum temperature of 68 degrees Fahrenheit measured three (3) feet above the floor and two (2) feet from exterior walls during ordinary winter conditions.

(C) *Electrical system.*

(i) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall-type electric convenience receptacles, connected in such manner as prescribed by the National Electrical Code ((NEC) - Volume IV of the N. C. State Building Code). There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one (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 three (3) floor or wall-type electric convenience receptacles.

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

(iii) 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 National Electrical Code.

Dwelling units let as Vacation/Conference Rentals are required to comply with additional Fire and Safety Code regulations detailed in Chapter H of Montreat General Code of Ordinances, including Ground Fault Circuit Interrupter (GFCI) receptacle outlets in all locations as prescribed by the NEC.

Section 6. Minimum Standards for Ventilation.

(A) *General.* Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The total (aggregate) glazing area of habitable rooms shall be at least 8 percent of the floor area of such rooms. Whenever walls or other portions of structures face a window or any room and the light-obstructing structures are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of the room, the total window area of the skylight shall equal at least 15 percent of the total floor area of the room.

(B) *Habitable rooms.* Every habitable room shall have at least one (1) window or skylight which can easily be opened, or such other device as will adequately ventilate the room. **The minimum aggregate net free ventilation area,** measured between stops and sill to sash, for every habitable room shall be 5 percent of the floor area of the room. The total openable

window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation. In habitable sleeping rooms let for rent, in no case shall the number of required openings, net clear openable area(s) and dimensional requirement(s) be less than that specified in N. C. State Residential Building Code (Volume VII of the State Building Code) for emergency escape and rescue.

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

Section 7. Minimum Standards for Space, Use and Location.

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

(i) 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 three (3) occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.

(ii) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one (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 (1/2) of the floor area of every habitable room with sloped ceilings shall have a ceiling height of at least seven (7) feet. Ceilings in basements may project to within six (6) feet eight (8) inches of the finished floor; and beams, girders, ducts or other obstructions may project to within six (6) feet four (4) inches of the finished floor.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area; however, closet area and wall area within the dwelling unit may count for not more than 10 percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than five (5) feet shall not be considered as part of the required floor area contributing toward total area of the room to determine maximum permissible occupancy.

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

(E) *Basements.* No basement shall be used for living purposes unless:

(i) The floor and walls are substantially watertight;

(ii) The total window area and total openable window area within sleeping rooms are at least the minimum required for emergency escape and rescue, and ceiling height is equal to that required for habitable rooms ;

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

Section 8. Minimum Standards for Safe and Sanitary Maintenance.

(A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall, and exterior roof shall be substantially weathertight 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 or penetration of moisture or the weather.

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

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

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

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment, or utility which is required under this article 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) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by N. C. State Residential Building Code.

Section 9. Minimum Standards for Control of Insects, Rodents and Infestations.

(A) *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.

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

Section 10. Minimum Standards Applicable to Boarding Houses; Exceptions.

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

(A) *Water closet, hand lavatory and bath facilities.* At least one (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 four (4) rooms within a boarding house wherever the facilities are shared. All the facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (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. The required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one (1) occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one (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 boarding 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 boarding house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the boarding 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 subsection (1) of this section shall be located within the boarding 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 without going outside the boarding house or through any other room therein.

Section 11. Responsibilities of Owners and Occupants.

(A) *Public areas.* Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

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

(C) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

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

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

Section 12. Duties of Building Inspector.

The Building Inspector is hereby designated as the Public Officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. It shall be the duty of the Building Inspector:

(A) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the Town, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this article with respect to the dwellings and dwelling units;

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

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

(D) To perform such other duties as may be herein prescribed.

(E) In accordance with provisions contained in G.S. 160A-424 and Article I, Section 1 of this code:

(i) It shall be the policy of the Board of Commissioners of the Town to cause the Building Inspector(s) to periodically inspect property for unsafe, unsanitary, hazardous, or unlawful conditions. Such inspections may be made on a random basis or shall take place when the Inspector has reason to believe a property or structure is not in compliance with law(s) or ordinance(s) or when the Inspector or Town receives a written or verbal complaint.

(ii) Unless the property owner or lawful occupant gives permission to inspect, the Inspector shall draw an Administrative Warrant from a judge or magistrate allowing the Town to carry out inspections.

(iii) It shall further be the policy of the Town to direct communications, warnings, and enforcement activity to the owners of the inspected property.

Section 13. Powers of Building Inspector.

The Building Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others herein granted:

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

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

(C) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and

(D) To appoint and fix the duties of the officers, agents, and employees as he deems necessary to carry out the purposes of this article.

Section 14. Inspections; Duty of Owners and Occupants.

For the purpose of making inspections, the Inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the Inspector free access to the dwelling, dwelling unit, 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 their 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 the repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.

Section 15. Procedure for Enforcement.

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Inspector by a Public Authority or by at least five (5) residents of the Town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation; s/he shall, if a preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than 10 nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one (1) of the persons signing a petition relating to the dwelling. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) *Procedure after hearing.* After the notice and hearing, the Inspector shall state in writing a determination as to whether such dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

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

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

(C) *Failure to comply with order.*

(i) *In personam* remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to

comply with an order of the Inspector to vacate and close, and remove or demolish the same within the time specified therein, the Inspector shall submit to the Board at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing the owner to comply with the order of the Inspector, as authorized by G.S. 160A-446(g).

(ii) *In rem* remedy. After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding paragraph (i), the Inspector shall submit to the Board an ordinance ordering the Inspector to cause the dwelling or dwelling unit to be repaired, altered, improved or vacated and closed and removed or demolished, as provided in the original order of the Inspector, and pending the removal or demolition, to placard the dwelling as provided by G.S. 160A-443 and section 17 of this article.

(D) *Appeals from orders of Inspector.*

(i) An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within 10 days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Zoning Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection (5) of this section.

(ii) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector; but the concurring vote of four (4) members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the

necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(iii) 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) *Petition to superior court by owner.* Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. 160A-446(f).

Section 16. Methods of Service of Complaints or Orders.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of the complaint or order upon such person may be made by publishing the same once each week for two (2) successive weeks in a newspaper, printed and published and circulating in the Town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

Section 17. In Rem Action by Inspector; Placarding.

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this article, and upon adoption by the Board of an ordinance authorizing and directing him to do so, as provided by GA. 160A-443(5) and section 15(C) of this article, the Inspector shall proceed to cause the dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board and shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the office of the Register of Deeds of Buncombe County, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5).

Section 18. Costs, a Lien on Premises.

As provided by G.S. 160A-443(6), the amount of the cost of any repairs, alterations, improvements, vacating and closing, removal or demolition, caused to be made or done by the Inspector pursuant to section 17 of this article shall be a lien against the real property upon which

the cost was incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160A of the General Statutes.

Section 19. Alternative Remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this ordinance by criminal process as authorized by G.S. 14-4 and section 22 of this article, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

Section 20. Zoning Board of Adjustment to Hear Appeals.

All appeals which may be taken from decisions or orders of the Inspector pursuant to section 15(D) of this article shall be heard and determined by the Zoning Board of Adjustment. As the appeals body, the Board shall have the power to fix the times and places of its meetings; to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by section 15(D) and shall keep an accurate journal of all its proceedings.

Section 21. Conflict with Other Provisions.

In the event any provision, standard, or requirement of this article 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 shall prevail.

Section 22. Violations; Penalty.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, refuse to repair, alter, improve the same, vacate and close, 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; and each day that any such failure, neglect, or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 15 of this article, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration, improvement or its vacation and closing; and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

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

Section 23. Severability.

If any provision of this article is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, the provision shall be deemed a separate, independent provision and the holding shall not affect the validity of any other provision hereof, and to that end, the provisions of this article are hereby declared to be severable.