

MONTREAT CODE OF GENERAL ORDINANCES

CHAPTER J - BUILDING CODES

ARTICLE II: MINIMUM HOUSING REGULATIONS

Section 1. Authority, Purpose, and Scope.

(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 or defects increasing the hazards of fire, accidents and other calamities, due to 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, and that a public necessity exists to exercise the police powers of the Town to repair, close or demolish such dwellings in accordance with the procedure set out in this Chapter.

(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.

(C) The provisions of this article apply to all existing dwellings and all dwellings hereafter constructed within the Town of Montreat, which are used or intended to be used for human habitation.

(D) The provisions of this article also provide for the repair, closing or demolition of any abandoned structure which the Board of Commissioners finds 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 facilities.

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.

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(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 but 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 the current value of the dwelling, 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 the current value of the dwelling, 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, including but not limited to all dwelling units and rooming units.

(G) *Dwelling, Single-Family* shall mean a detached dwelling unit, designed for or occupied exclusively by one family including 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, or 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.

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(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, 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 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, administrator, trustee or guardian of the estate of the owner. Any such person representing the actual owner in any capacity shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as 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.

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(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 or structural integrity or which pose a fire hazardous condition or do not comply with the minimum standards of fitness 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. The Building Inspector may determine that a dwelling is unfit for human habitation if he/she finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the Town. Examples of defective conditions could include, but are not limited to, defects that increase the likelihood of fire, accident, or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; structural defects; and uncleanliness. Without excluding other methods of determining whether a dwelling is unfit for human habitation, the Building Inspector shall apply the minimum standards set forth in Sections 4, 5, 6, 7, 8, 9, and 10 in determining whether a dwelling is unfit. No person shall occupy a dwelling which does not meet the minimum standards of fitness set forth in this article.

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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, substantially 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 substantially 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 substantially 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

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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. Plumbing Code in effect at the time of installation 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 and properties let for rent utilized during the months of November through March 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 at least one habitable room 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.

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(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 with one or more exterior walls shall have at least one (1) window or skylight facing directly to the outdoors which can easily be opened, or such other device or means as will adequately ventilate the room. The total (aggregate) glazing area of habitable rooms where provided as the means of ventilation shall be at least eight (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 a skylight or multiple skylights are the only window(s) in a room, the total window area of the skylight(s) 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, skylight or other comparable exterior opening which can easily be opened, or such other device or means as will adequately ventilate the room. Habitable rooms with no exterior walls shall be considered to meet the ventilation requirement if two doorways, windows or other adequately-sized openings provide cross ventilation from connecting spaces with windows or skylights opening to the outside. If natural light is not provided by means of a window or skylight, an adequate source of artificial light shall be provided to meet this requirement. The minimum aggregate net free ventilation area, measured between stops and sill to sash or from threshold to header and jamb-to-jamb, for every habitable room shall be four (4) 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

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dimensional requirement(s) be less than that specified in N.C. Residential Code (Volume VII of the N.C. 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 one habitable room with the minimum room size as required by the N.C. Residential Code.

(i) Every dwelling unit shall contain at least 120 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.* Habitable rooms shall have a ceiling height of at least seven (7) feet. 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. Attic spaces occupied for sleeping purposes shall provide the required emergency escape and rescue opening in addition to meeting the other dimensional requirements in order to be considered a habitable room.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room 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.

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(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.* Foundation walls, exterior walls, and exterior roofs shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Exterior walls 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.* The floors, interior walls and ceilings 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.* The windows, exterior doors, basement or cellar doors, and hatchways shall be substantially weathertight, watertight, and rodent proof and shall be kept in sound working condition and good repair.

(D) *Stairs, porches, and appurtenances.* The outside and inside stairs, porches, 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.* The bathroom floor surfaces and water closet compartment floor surfaces 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.* The supplied facilities, pieces of equipment, or utilities which are required under this article shall be so constructed or installed that they will function safely and effectively and shall be maintained in satisfactory working condition.

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(G) *Drainage.* Yards shall be properly graded so as to drain thoroughly 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. Residential Code.

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

(A) *Rodent control.* Basement or cellar windows used or intended to be used for ventilation, and other openings 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 the occupant's 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 minimum standards and requirements and other provisions 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

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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 (i) the sanitary maintenance of all walls, floors and ceilings, (ii) the sanitary maintenance of every other part of the boarding house; and (iii) the sanitary maintenance of the entire premises where the boarding house is located.

(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.

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Section 12. Duties of Building Inspector.

The Board of Commissioners designates the Building Inspector to exercise the powers and duties prescribed by this Chapter and to enforce the provisions of this article. 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.

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 administer oaths and affirmations, examine witnesses and receive evidence;

(B) 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

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

Section 14. Inspections.

(A) *Inspections Authorized.* The Building Inspector shall make periodic inspections according to the policy established by the Board of Commissioners for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in structures within the Town. In addition, the Building Inspector shall make inspections when he/she has reason to believe that such

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conditions exist in a particular structure. In exercising this power, the Building Inspector shall have the right to enter any premises within the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Upon refusal after proper notice, the Building Inspector shall have the right to inspect pursuant to the provisions of Article 4A, Chapter 15 of the North Carolina General Statutes.

(B) *Duty of Owners and Occupants.* The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the Building 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 Building 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 Building Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation the Building Inspector 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 Building Inspector at a place in the Town 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 Building Inspector.

(B) *Procedure after hearing.* After the notice and hearing, the Building 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 Building 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 Building Inspector shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or

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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 only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alternations or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under Section 15(c).

(ii) If the Building Inspector determines that the dwelling or dwelling unit is dilapidated, s/he shall state in writing findings of fact to support the determination. The Building 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 dwelling within a specified period of time not to exceed 90 days.

(C) *Failure to comply with order.*

(i) If the owner of any deteriorated or dilapidated dwelling or dwelling unit shall fail to comply with an order of the Building Inspector to repair, alter or improve or to vacate and close the dwelling within the time specified therein, the Building Inspector may cause the dwelling to be repaired, altered or improved or to be vacated and closed in accordance with the requirements of this article. The Building Inspector may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor.

(ii) If the owner of a dilapidated dwelling shall fail to comply with an order of the Building Inspector to remove or demolish the dwelling within the time specified therein, the Building Inspector may cause the dwelling to be removed or demolished in accordance with the requirements of this article.

(iii) The Building Inspector shall not exercise the duties set forth in the section until the Board of Commissioners shall have by ordinance ordered the Building Inspector to proceed to effectuate the purpose of this article. After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Building Inspector within the time specified therein, the Building Inspector shall submit

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to the Board an ordinance ordering the Building Inspector to cause the dwelling or dwelling unit which the Building Inspector has found to be unfit for human habitation to be repaired, altered, and improved or vacated and closed or removed or demolished, as provided in the original order of the Building Inspector. Upon adoption by the Board of Commissioners, this ordinance shall be recorded in the Office of the Register of Deeds of the county in which the dwelling is located and shall be indexed in the name of the property owner in the grantor index. No 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 this article.

(iv) If the Board of Commissioners shall have adopted an ordinance ordering the Building Inspector to cause a dwelling to be repaired, altered or improved or to be vacated or closed or if the Building Inspector shall have issued an order ordering a dwelling to be repaired or vacated and closed and if the dwelling has been vacated or closed for a period of one year pursuant to the ordinance or order, then the Board of Commissioners may, after the expiration of such one-year period, enact an ordinance if the Board of Commissioners has found 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, morals 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 North Carolina. The Board of Commissioners shall serve such ordinance on the owner of the dwelling. If the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent 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. If the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days. The ordinance shall be recorded in the Office of the Register of Deeds in the county where the property is 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 Building Inspector shall effectuate the purpose of the ordinance.

(v) If any occupant fails to comply with an order to vacate a dwelling, the Building Inspector may file a civil action in the name of the Town to remove such occupant in accordance with the requirements of G.S. Section 160A-443(7).

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(vi) Whenever a determination has been made that a dwelling must be vacated and closed or removed or demolished under provisions of this article, 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. The notice shall be given in accordance with the requirements of G.S. Section 160A-443(8).

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

Section 16. Methods of Service of Complaints or Orders.

Complaints or orders issued by the Building Inspector under this article shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons or the identities of the owners are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Building Inspector shall make an affidavit to that effect, and the serving of the complaint or order upon such person 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 article. 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. Costs, a Lien on Premises.

As provided by G.S. 160A-443(6), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Building Inspector pursuant to section 15(C) 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 collected as the lien for special assessment as provided by Article 10, Chapter 160A of the General Statutes.

If the real property upon which the cost was incurred is located in the Town, then the amount of the cost is also a lien on any other real property of the owner located within the Town limits or one mile thereof, except for the owner's primary residence. This lien is inferior to all prior liens and shall be collected as a money judgment.

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If the dwelling is removed or demolished by the Building Inspector, he/she shall sell the materials of the dwelling and any personal property, fixtures or appurtenances found in or attached to the dwelling. The Building Inspector shall credit the proceeds of the sale against the cost of the removal or demolition. The Building Inspector shall deposit any remaining balance in the superior court, secured in a manner directed the court, and distributed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and cause their removal or abatement by summary proceedings or otherwise.

Section 18. Appeals from Orders of Inspector.

(A) An appeal from any decision or order of the Building Inspector may be taken by any person aggrieved thereby or by any officer or board of the Town. Any appeal from the Building 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 Building Inspector and with the Zoning Board of Adjustment (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 Building 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 Building 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 Building 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 Building 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 this 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 Building 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.

(B) *Hearing of Appeals.* 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 Building 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 Building 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 ordinance, to adapt the application of the ordinance to the necessities of the case to the end

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

(C) 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.

(D) *Petition to superior court by owner.* Any person aggrieved by an order issued by the Building 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 Building Inspector pending a final disposition of the cause, as provided by G.S. 160A-446(f).

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.