



## City of Roxboro

### PLANNING & DEVELOPMENT DEPARTMENT

March 20, 2007

IN RE: Rental Property Located within the City of Roxboro, NC

Dear Property Owner:

As identified through the City Council's strategic planning process, dilapidated housing is a community concern. Deteriorated and dilapidated dwellings negatively impact families, neighborhoods, business/industries, city services and the community's marketability.

On March 19, 2007, the Roxboro City Council adopted a City-wide ordinance requiring owners of rental properties, **used for residential occupancy**, to register said properties. The purpose of the program is to: (1) allow the City to develop a database containing the location and ownership of residential rental properties, (2) inspect residential rental properties for compliance with the City's Minimum Housing Code; and (3) to aid City in communicating with rental property owners and to streamline the code enforcement process.

Attached you will find a 1) Rental Registration Form(s), 2) a copy of the City's Rental Registration Ordinance, 3) a Limited Power of Attorney form, necessary if you don't live in Person County, 4) a copy of the City's Minimum Housing Code.

**Please complete the applicable form(s), and return to the City's Planning & Development Department, located at 105 S. Lamar Street or mail the form(s) to P.O. Box 128, Roxboro, NC 27573, Attn. Rental Registration. The due date for returning the completed Rental Registration Form is November 30, 2007.**

At this time, there is no fee associated with rental registration. The ordinance requires the form to be completed and updated upon any change to the data (i.e. sale of existing rental property, purchase of additional rental property, and change of designated local agent). Please keep your information current.

If you do not own any property used as a residential rental, please complete the form and write "NO RESIDENTIAL RENTAL" on the top of the form and return it. **If you have any specific questions about the Rental Registration Form or questions in general concerning the rental registration ordinance, please call the Planning & Development Department at 336-599-3116, ext. 233.**

For your convenience, the rental registration form, City's Minimum Housing Code, is available at City Hall, the Person County Public Library and online from the City's website located at [www.cityofroxboronc.com](http://www.cityofroxboronc.com).

Sincerely,

Julie Kelly  
Planning & Development Director



# City of Roxboro

## RENTAL HOUSING REGISTRATION INFORMATION PACKET AND FORM

105 South Lamar Street ♦ P.O. Box 128 ♦ Roxboro, NC 27573 ♦ (336) 599-3116 ♦ Fax (336) 599-3774  
<http://www.cityofroxboronc.com>

Please return completed form to the above referenced address by **November 30, 2007**. Thank you.

**- Rental Dwelling Registration Form -**  
(COMPLETE AND RETURN THIS FORM ONLY)

**Registration No.** \_\_\_\_\_ **Entry Date:** \_\_\_\_\_ **Initial:** \_\_\_\_\_

TO BE COMPLETED BY PROPERTY OWNER OR DESIGNATED AGENT/FIRM/CORPORATION

**Property Owner(s)/Agent's**

**Name(s):** \_\_\_\_\_

**Signature(s):** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Cellular Phone:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Property No.** \_\_\_\_\_ **Overall Condition of Rental Unit Please Circle (Good, Fair, Poor)**

**Rental Property Street Address:** \_\_\_\_\_

**Tax Map No. or PIN:** \_\_\_\_\_ **No. of Units at This Address:** \_\_\_\_\_ **Year Built:** \_\_\_\_\_

**Type of Dwelling please circle (single-family, two-family, or multiple-family, other \_\_\_\_\_)**

**Max. No. Tenants Allowed per Dwelling:** \_\_\_\_\_

**If applicable, name, mailing address and telephone No. of Mortgage Holder:** \_\_\_\_\_

**Property No.** \_\_\_\_\_ **Overall Condition of Rental Unit Please Circle (Good, Fair, Poor)**

**Rental Property Street Address:** \_\_\_\_\_

**Tax Map No. or PIN:** \_\_\_\_\_ **No. of Units at This Address:** \_\_\_\_\_ **Year Built:** \_\_\_\_\_

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**If applicable, name, mailing address and telephone No. of Mortgage Holder:** \_\_\_\_\_

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# AN ORDINANCE ESTABLISHING A REGISTRATION SERVICES PROGRAM FOR ALL RENTAL DWELLINGS WITHIN THE CITY OF ROXBORO

WHEREAS, there are a large number of rental dwellings within the City of Roxboro;

WHEREAS, the City has a duty to ensure that all rental dwellings within the City meet the requirements of the City Building Regulations, Minimum Housing Code, Zoning Code and other local ordinances;

WHEREAS, a number of the rental dwellings are in a state of disrepair, are hazardous to the health and safety of the tenants or otherwise fail to conform to City ordinances and rules;

WHEREAS, it is presently difficult, if not impossible, to identify all rental dwellings within the City;

WHEREAS, it is presently difficult, if not impossible, to accurately identify and contact the owners of all rental dwellings in the City; and

WHEREAS, the City of Roxboro City Council has determined that registering all rental dwellings in the City will greatly assist the City in its code enforcement efforts;

THEREFORE, the City of Roxboro City Council hereby adopts a Rental Dwelling Registration Services Program, which shall be added to the Roxboro City Code of Ordinances as Chapter 157. The provisions of the program are as follows:

Section 1.

## Chapter 157: Rental Dwelling Registration Services Program

### § 157-1. *PURPOSE AND AUTHORITY*

The City of Roxboro recognizes the need for a rental dwelling registration services program, which will help ensure that all rental dwellings within the City comply with all City ordinances and rules, including but not limited to, the Building Regulations, the Minimum Housing Code, the Zoning Code, and various other fire and safety ordinances. The registration program shall be used as a tool for contacting both absentee and local landlords when it is necessary to compel them to repair or otherwise correct violations of City ordinances and rules. Further, the revenue generated by the privilege tax established as a part of this program shall be generally used to assist the City in its code enforcement efforts.

The City has adopted this program pursuant to the authority conferred to it under N.C.G.S. Sec. 160A-174; 160A-194; 160A-211 and Chapter 160A, Article 19, Part 6, "Minimum Housing Standards."

### § 157-2. *DEFINITIONS.*

As used in this Chapter, the terms and words listed below shall have the following meanings.

**Dwellings** - A building or portion of a building designated or used for housekeeping purposes.

**Owner** - The legal titleholder of a rental dwelling. For the purposes of this Chapter, “owner” does not include mortgagees or holders of liens on the premises or any real property contained therein.

**Owner-Occupied Rental Dwelling** - A rental dwelling that is occupied in whole or in part by an individual who is the legal owner of the rental dwelling.

**Premises** - A lot, plot or parcel of land, including the buildings or structures thereon, which also includes dwellings.

**Rental Dwelling** - A dwelling which is leased or rented from the owner, either directly or through an agent, to any tenant, whether by day, week, month, year or any other term. For the purposes of this Chapter, a rental dwelling does not include hotel rooms, motel rooms, dormitory rooms, medical or long term care facilities, bed and breakfast establishments and rental dwellings owned and administered by the Roxboro Housing Authority. Rental dwellings also do not include any dwelling that is let by an owner to a tenant free of all charges, including utility fees, for the entire time a tenant occupies the dwelling.

**Responsible Local Agent** - A natural person, or business entity with sufficient authority and capacity to act as required by this Chapter, having his or her place of residence or business office in Person County and designated by the owner as the agent responsible for operating such property in compliance with the ordinances adopted by the City.

**Tenant** - Any individual who has the temporary use of a rental dwelling owned by another person in subordination to that other person’s title and with that other person’s consent.

**§ 157-3. REGISTRATION REQUIREMENTS.**

- (A) No person shall lease, rent, occupy, or otherwise allow a rental dwelling within the City to be occupied, unless the owner, or responsible local agent, of the rental dwelling has registered the rental dwelling by completing and filing a current registration form with the Planning and Development Department, as provided in this Chapter.
- (B) Registration Form and Power of Attorney.

Registration shall be made upon forms furnished by the Planning and Development Department and shall require at a minimum the following information:

- (1) The street address and Person County PIN or TMBL number for the premises of each rental unit;
- (2) The number and type of rental dwellings (i.e. single-family dwellings, two-family dwellings, or multiple-family dwellings) on the premises at each street address;
- (3) The name, home or business mailing address, home or business telephone number, and, when available, the e-mail address, mobile telephone number, and facsimile number of all owners of the rental dwelling(s);
- (4) The name, home or business mailing address, home or business telephone number, and, when available, the an e-mail address, mobile telephone number, and facsimile number of the responsible local agent designated by the owner. If the owner has more

than one responsible local agent, the registration form shall make clear for which rental dwellings each agent is responsible;

- (5) The maximum number of tenants permitted for each rental dwelling;
- (6) The name, mailing address and telephone number of all persons or businesses who hold a mortgage or lien on the rental dwelling or the premises on which the rental dwelling is located;
- (7) The signature of the owner(s) or, where the owner is a business entity, the appropriate executive signatures; and
- (8) The signature of the responsible local agent.
- (9) When the responsible local agent is someone other than the owner, a valid Power of Attorney shall be included with the registration form that, at a minimum, authorizes the responsible local agent to act on the behalf of the owner to do the following:
  - (a) Enter the premises and rental dwelling, with or without City staff;
  - (b) Make any repairs to the rental dwelling that are required by the City ordinances or rules or pursuant to an order from City staff;
  - (c) Appear on behalf of the owner at any hearings conducted by the City and pertaining to the rental dwelling;
  - (d) Accept all notices or service of process with respect to the rental dwelling; and
  - (e) Make any other decisions or perform any other acts necessary to ensure that the rental dwelling complies with all City ordinances and rules.

An owner of more than one rental dwelling may submit a single registration for all rental dwellings, provided that the registration lists all requested information for every rental dwelling owned by the owner. An owner of more than one rental dwelling need not submit more than one Power of Attorney, unless the owner has different responsible local agents for different rental dwellings. In that case, a valid Power of Attorney shall be submitted for each responsible local agent.

(C) Accurate and Complete Information.

All information provided on the registration form shall be accurate and complete. No person shall provide inaccurate information for the registration of a rental unit, or fail to provide the information required for such registration.

(D) Initial Registration and Updated Registrations.

The initial registration for all rental dwellings shall be filed with the Planning and Development Department by **November 30, 2007**. Thereafter, an owner need not reregister unless one of the following occurs:

- (1) The ownership of any rental dwelling changes;
- (2) The responsible agent for any rental dwelling changes;

- (3) The owner removes or adds rental dwellings to the rental market; or
- (4) Any other information required in the registration changes.

When any one of these events occur, the rental dwelling owner, or responsible local agent, shall file either a new registration or an update to the existing registration with the Planning and Development Department within thirty (30) days of the occurrence of the event. Such new registration or update shall clearly inform City staff that information provided pursuant to Section 157-3(B) has changed and shall provide the new or corrected information. A new Power of Attorney must be filed only when the owner or responsible local agent for a rental dwelling changes or when any other event occurs that would limit the effectiveness of the existing Power of Attorney.

**§ 157-4. OWNER'S AND RESPONSIBLE LOCAL AGENT'S DUTIES.**

The rental dwelling owner or responsible local agent shall be responsible for all of the following:

- (1) Operating the registered rental dwelling in compliance with all applicable City ordinances and rules, including but not limited to the City Building Regulations, the Minimum Housing Code and Zoning Code;
- (2) Providing City staff access to the rental unit for the purpose of making any and all inspections necessary to ensure compliance with the applicable City ordinances and rules;
- (3) Accepting all notices and services of process with respect to the rental dwelling.

**§ 157-5 ENFORCEMENT AND PENALTIES.**

(A) A violation of any of the provisions of this Chapter shall subject the owner and responsible local agent to a civil penalty of \$100.00. Civil penalties shall be levied on a per-registration basis and not on a per-rental-dwelling basis.

(B) Each day that a violation continues shall constitute a separate offense.

(C) Before levying any civil penalty, the City must first provide written notice to the owner(s) and responsible local agent that a violation exists and provide thirty (30) days from the date of the written notice for the owner or responsible local agent to correct the violation.

(D) The City may collect unpaid civil penalties in a civil action in the nature of debt.

(E) This Chapter may be enforced by any appropriate equitable or other legal remedy permitted by law.

Section 2. All resolutions or ordinances in conflict in whole or in part with any of the provisions of this Ordinance are hereby repealed.

Section 3. This Ordinance shall be effective upon adoption.

This the 19<sup>th</sup> day of March 2007.

Ayes: Mayor Pro Tem Sam Spencer, Council Members: James Allen, Wallace Burke, Henry Daniel, Mark Phillips

Noes: None

Excused/Absent: None

**North Carolina Statutory Short Form of General Power of Attorney**

NOTICE

THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE DEFINED IN CHAPTER 32A OF THE NORTH CAROLINA GENERAL STATUTES WHICH EXPRESSLY PERMITS THE USE OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY THE PARTIES CONCERNED.

State of \_\_\_\_\_

County of \_\_\_\_\_

I \_\_\_\_\_, appoint \_\_\_\_\_ to be my attorney in fact, to act in my name in any way which I could act for myself, with respect to the following matter as defined in Chapter 32A of the North Carolina General Statutes: " Real Property Transaction". This power includes, but is not limited to, those acts listed in Chapter 157-3 (B) (9) of the City's Code of Ordinances.

(If power of substitution and revocation is to be given, add: 'I also give to such person full power to appoint another to act as my attorney in fact and full power to revoke such appointment.')

(If period of power of attorney is to be limited, add: 'This power terminates \_\_\_\_\_, \_\_\_\_\_')

(If power of attorney is to be a durable power of attorney under the provision of Article 2 of Chapter 32A and is to continue in effect after the incapacity or mental incompetence of the principal, add: 'This power of attorney shall not be affected by my subsequent incapacity or mental incompetence.')

(If power of attorney is to take effect only after the incapacity or mental incompetence of the principal, add: 'This power of attorney shall become effective after I become incapacitated or mentally incompetent.')

(If power of attorney is to be effective to terminate or direct the administration of a custodial trust created under the Uniform Custodial Trust Act, add: 'In the event of my subsequent incapacity or mental incompetence, the attorney in fact of this power of attorney shall have the power to terminate or to direct the administration of any custodial trust of which I am the beneficiary.')

(If power of attorney is to be effective to determine whether a beneficiary under the Uniform Custodial Trust Act is incapacitated or ceases to be incapacitated, add: 'The attorney in fact of this power of attorney shall have the power to determine whether I am incapacitated or whether my incapacity has ceased for the purposes of any custodial trust of which I am the beneficiary.')

Dated \_\_\_\_\_, \_\_\_\_\_.

(Seal)

Signature \_\_\_\_\_

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared before me, the said named \_\_\_\_\_ to me known and known to me to be the person described in and who executed the foregoing instrument and he (or she) acknowledged that he (or she) executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

My Commission Expires \_\_\_\_\_.

\_\_\_\_\_ (Signature of Notary Public)

Notary Public (Official Seal)

## **CHAPTER 151: MINIMUM HOUSING CODE**

### **Section**

#### **General Provisions**

- 151.01 Findings; purpose**
- 151.01.01 Scope**
- 151.02 Definitions**
- 151.03 Responsibilities of owners and occupants**

#### **Minimum Housing Standards**

- 151.14 General**
- 151.15 Fitness for dwellings and dwelling units**
- 151.16 Structural condition**
- 151.17 Basic plumbing, heating and electrical equipment and facilities**
- 151.18 Ventilation**
- 151.19 Space, use and location**
- 151.20 Safe and sanitary maintenance**
- 151.21 Control of insects, rodents and infestations**
- 151.22 Rooming houses; exceptions**

#### **Determination of Residential Buildings Being Unfit for Human Habitation**

- 151.23 Residential buildings unfit for human habitation.**

#### **Administration and Enforcement**

- 151.35 Powers and duties of Housing Administrator**
  - 151.36 Inspections; duty of owners and occupants**
  - 151.37 Methods of service of complaints and orders**
  - 151.38 In rem action by Housing Administrator; placarding**
  - 151.39 Costs a lien on premises**
  - 151.40 Zoning Board of Adjustment to hear appeals**
  - 151.41 Procedure for enforcement**
  - 151.42 Alternative remedies**
  - 151.43 Conflict with other provisions**
- 
- 151.50 Application of Residential Building Code**
- 
- 151.98 Violations**
  - 151.99 Penalty**

## **GENERAL PROVISIONS**

### **§ 151.01 FINDINGS; PURPOSE.**

(A) Pursuant to G.S. §§ 160A-441 and 160A-443, it is declared that there exist in the city 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 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 city as authorized by G.S. Ch. 160A, Art. 19, Part 6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160A-444.

(^90 Code, § 4-26)

### **§ 151.01.01 SCOPE.**

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

(B) The provisions of this article shall apply to all existing housing and to all housing hereafter constructed within the city. Except as otherwise provided herein, portable, mobile or demountable buildings or structures, including trailers, when used or intended for use for housing within the city, shall be subject to the applicable provisions of this article. This article establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this article.

### **§ 151.02 DEFINITIONS.**

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

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

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

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

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

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

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

**EXTERMINATION.** The control and elimination of insects, rodents or other pests by 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 Housing Administrator.

**GARBAGE.** The organic waste resulting from the handling, preparation, cooking and consumption of food.

**GENDER.** Words having a masculine gender shall include the feminine and neuter genders.

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

**HOUSING ADMINISTRATOR.** The Code Enforcement Officer, or any other person duly designated by the City Council to administer and enforce the Housing Code.

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

**INSPECTOR.** The Chief Building Inspector or designee of the City of Roxboro or Person County as authorized/appointed by the City Council or City Manager.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi permanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semi permanent foundation having a measurement of over 32 feet in length and over eight feet in width.

**MULTIPLE DWELLING.** Any dwelling containing more than two dwelling units.

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

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

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

- (1) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof;
- (2) Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit; or
- (3) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply

with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

**PARTY or PARTIES IN INTEREST.** All persons who have interests of record in a dwelling, dwelling unit or rooming unit, and any persons who are in possession thereof.

**PERSON.** Any individual, corporation, firm, partnership, association, organization or other legal entity.

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

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

**PUBLIC OFFICER.** Means the officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by this part.

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

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

**RUBBISH.** The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust.

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

**TEMPORARY HOUSING.** 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.

**UNFIT FOR HUMAN HABITATION.** Conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this chapter.

**WORDS HAVING CERTAIN MEANING.** Whenever the words "dwelling," "dwelling unit", "rooming house", "rooming unit", or "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

(`90 Code, § 4-27)

### **§ 151.03 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.**

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

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

**(C) Rubbish and garbage.** Every occupant of a dwelling or dwelling unit shall dispose of all his or her 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 structures.** 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.

(`90 Code, § 4-36) Penalty, see § 151.99

## **MINIMUM HOUSING STANDARDS**

### **§151.14 GENERAL**

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements:

**(A) Sanitary facilities--Required.** Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.

**(B) Same--Location.** All required sanitary facilities shall be located within the dwelling unit and shall be accessible to the occupants of same. The water closet, tub or shower, and lavatory in at least one (1) bathroom shall be located in a room affording privacy to the user and such rooms shall have a minimum floor space of (30) thirty square feet.

**(C) Hot and cold water supply.** Every dwelling unit shall have connected to the kitchen sink, lavatory and tub or shower an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

**(D) Heating facilities.**

1. Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit therein to a temperature of at least seventy (70) degrees Fahrenheit at a distance three (3) feet above the floor during ordinary minimum winter conditions.

2. Where a gas or electric central heating system is not provided, each dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents, whereby heating appliances may be connected so as to furnish a minimum temperature of seventy (70) degrees Fahrenheit measured to a point three (3) feet above the floor during ordinary minimum winter conditions, and in safe and proper working order.

**(E) Cooking and heating equipment.** All cooking and heating equipment and facilities shall be installed in accordance with the appropriate building, gas or electrical code and shall be maintained in a safe and good working condition.

**(F) Garbage storage or disposal facilities.** Every dwelling unit or multifamily dwelling shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an incinerator unit, to be approved by the inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garage can as required by City ordinances.

**§ 151.15 FITNESS FOR DWELLINGS AND DWELLING UNITS.**

**(A)** Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 151.16 through 151.21.

**(B)** No person shall occupy as owner-occupant or let or sublet to another for occupancy for use as human habitation, any dwelling or dwelling unit, which does not

comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 151.16 through 151.21.

(`90 Code, § 4-28) Penalty, see § 151.99

### **§ 151.16 STRUCTURAL CONDITION.**

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

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

(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, and maintained in a safe manner capable of supporting the normal load use.

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

(E) Adequate unobstructed, safe 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 water-tight.

(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.

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

(`90 Code, § 4-29) Penalty, see § 151.99

### **§ 151.17 BASIC PLUMBING, HEATING AND ELECTRICAL EQUIPMENT AND FACILITIES.**

**(A) Plumbing system.**

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

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

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

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of 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 leased as rental property within the city shall have facilities for providing heat in accordance with the following:

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

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

**(C) Electrical system.**

(1) No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling and/or dwelling unit unless such is wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor- or wall-type electric convenience receptacles, connected in such manner as determined by the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room, at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in

any habitable room, then each such habitable room shall contain at least three floor- or wall-type electric convenience receptacles.

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

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

(4) The minimum capacity of the service supply and the main disconnect shall be sufficient and adequately carry the total load required in accordance with the State Electrical Code.

( '90 Code, § 4-30) Penalty, see § 151.99

#### **§ 151.18 LIGHT; VENTILATION.**

(A) **General.** Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of the room. Whenever walls or other portions of structures face a window or any room and the light-obstructing structures are located less than five 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% of the total floor area of the room.

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

(C) **Bathroom and water closet 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.

(D) **Electric lights and outlets.** Every dwelling shall be adequately and safely wired for electric lights and convenience receptacles. Every habitable room and hallway shall have provisions for adequate lighting and other necessary electrical service.

( '90 Code, § 4-31) Penalty, see § 151.99

## § 151.19 SPACE, USE AND LOCATION.

(A) **Room sizes.** No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling and/or dwelling unit unless such contains at least the minimum room size in each habitable room as required by the State Building Code.

(1) 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 occupants and at least 75 square feet of additional habitable floor area for each additional occupant.

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

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

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

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

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

(1) The floor and walls are substantially watertight;

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

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

(4) Meets all specifications for habitable rooms.

(`90 Code, § 4-32) Penalty, see § 151.99

## § 151.20 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; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

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

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

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

**(E) Bathroom floors.** Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit 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 chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in a satisfactory working condition.

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

**(H) Noxious weeds.** Every yard and all exterior property areas shall be kept free of species of weeds or plant growth, which are noxious or detrimental to health, and not to exceed 12” in height.

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

**(J) Accessory structures.** Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition.

**(K) Protective railings.** Protective railings shall be required on any unenclosed structure (i.e., stoop, porch or deck) over thirty inches (30) above adjacent finish grade or on any steps exceeding four (4) risers. Interior stairs and stairwells more than four (4) risers high shall have handrails located in accordance with requirements of the State Building Code. Handrails or protective railings shall be capable of bearing normally imposed loads and shall be maintained in good condition.

( '90 Code, § 4-33) Penalty, see § 151.99

## **§ 151.21 CONTROL OF INSECTS, RODENTS AND INFESTATIONS.**

**(A) Screens.** In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens that are properly fitting, not damaged or torn, nor nailed to the window frame or sash. Dwelling or dwelling units containing central air and heating systems year round are not required to have screens on doors or windows.

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

**(C) Infestation.** Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her 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 reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

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

**(E) Garbage storage and disposal.** Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an approved outside garbage can as required by city ordinances.

( '90 Code, § 4-34) Penalty, see § 151.99

## § 151.22 ROOMING HOUSES; EXCEPTIONS.

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

**(A) Water closet, hand lavatory and bath facilities.** At least one 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 rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one 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 occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for every occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

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

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

**(E) Exits.** Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required in accordance with state building codes.

(90 Code, § 4-35) Penalty, see § 151.99

### **DETERMINATION OF RESIDENTIAL BUILDINGS BEING UNFIT FOR HUMAN HABITATION**

**§ 151.23 RESIDENTIAL BUILDINGS BEING UNFIT FOR HUMAN HABITATION**

(A) The Housing Administrator shall determine that a residential dwelling or dwelling units is unfit for human habitation if one of the following below listed conditions exist:

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

(2) Load bearing member or members which show thirty-three (33) percent or more damage or deterioration or (non load bearing) interior or exterior walls or covering which shows fifty (50) percent or more of damage or deterioration as required by the State Building Code

(3) Floors or roofs which have improperly distributed loads, or which have insufficient strength to be reasonably safe for the proposed use as required by the State Building Code

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

(5) Dilapidated, decayed, unsanitary conditions or disrepair that is dangerous to the health, safety or welfare of the occupants or others within the city.

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

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

(8) Lack of adequate ventilation, light, heating or sanitary facilities to endanger the health, safety or welfare of the occupants or others within the city.

(9) Lack of adequate electrical, heating or plumbing facilities required by this chapter that is dangerous to the health, safety or welfare.

(B) Irrespective of subsection (A), a residential dwelling or dwelling unit shall be construed by the Housing Administrator to be unfit for human habitation, if more than seven (7) separate types of violations of any of the minimum housing code standards set forth in this article

**ADMINISTRATION AND ENFORCEMENT**

**§ 151.35 POWERS AND DUTIES OF HOUSING ADMINISTRATOR;**

(A) The Housing Administrator is designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. The Building Inspector, at the request of the Housing Administrator, is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter. The Housing Administrator or his or her authorized representative shall have the following powers and duties:

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

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

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

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

(5) To enter upon premises for the purpose of making examinations and inspections; provided, the entries shall be made in accordance with § 151.36 and state law, and shall be made in such manner as will cause the least possible inconvenience to the persons in possession;

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

(7) To perform such other duties as may be prescribed herein or by the City Council.

(B) The employees of the fire department and police department of the city shall make a report in writing to the Housing Administrator of each dwelling or dwelling unit, building or structure, which they know or suspect, may be in violation of this chapter. Any such report shall be delivered to the Housing Administrator immediately or no later than three (5) business days of the discovery of such building or structure by such employee of the fire and police department of the city.

( '90 Code, § 4-37)

### **§ 151.36 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.**

(A) For the purpose of making inspections, the Inspector is authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith in accordance with division (C) of this section, or upon the consent of the owner of the premises, or when the Inspector determines that an emergency exists that poses an immediate threat to the health or safety of the public. No owner or occupant of any dwelling, dwelling unit, rooming house or rooming unit or the person in charge thereof shall interfere with an inspection conducted in accordance with this section.

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

(C) When permission to inspect a dwelling or its premises is denied; the Housing Administrator must obtain a warrant to inspect. G.S. § 15-27.2 provides for the issuance of warrants for the conduct of inspections authorized by law. The North Carolina Court of Appeals, in *In Re Dwelling*, 24 N.C. App. 17 (1974), has held that the consent of the tenant-occupant who was in actual possession and control of the premises was sufficient to authorize an inspection without a warrant, notwithstanding the fact that the owner had objected to the warrantless search. When faced with a situation where permission to inspect is denied, the Housing Administrator is advised to seek the advice of the City Attorney.

(90 Code, § 4-38)

### **§ 151.37 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

(A) Complaints issued by the Housing Administrator or orders issued by a hearing officer under this article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Housing Administrator in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and he shall make an affidavit to that effect, then the serving of such complaint or order upon such owners or other persons may be made by publishing the same at least once in a newspaper having general circulation in the city, and no later than the time at which personal service would be required under provisions of this article.

When service is made by publication, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order.

(B) Failure on the part of any owner or party in interest to receive or have served upon him any complaint, notice or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person.

State law references: Similar provisions, G.S. § 160A-445

(`90 Code, § 4-40)

**§ 151.38 IN REM ACTION BY HOUSING ADMINISTRATOR; PLACARDING.**

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Housing Administrator issued pursuant to the provisions of this chapter, and upon adoption by the City Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. § 160A-443(5) and § 151.41(C), the Housing Administrator 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 chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the City Council, 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 Class 1 misdemeanor.

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

(`90 Code, § 4-41) Penalty, see § 151.99

**§ 151.39 COSTS A LIEN ON PREMISES.**

The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or demolition and removal by the Housing Administrator shall be a lien against the real property upon which such cost was incurred, which lien shall be filed, have the same priority and be collected as provided in G.S. § 160A-216 et seq. If the dwelling is demolished and removed by the housing inspector, he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the demolition and removal and any balance remaining shall be deposited in the superior court by the Housing Administrator, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court (in a special proceeding brought before the clerk of superior court for said purpose).

(`90 Code, § 4-42)

## **§ 151.40 ZONING BOARD OF ADJUSTMENT TO HEAR APPEALS.**

All appeals, which may be taken from decisions or orders of the Housing Administrator pursuant to § 151.41(D), 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 § 151.41(D), and shall keep an accurate journal of all its proceedings.

(90 Code, § 4-44)

## **§ 151.41 PROCEDURE FOR ENFORCEMENT.**

**(A) Preliminary investigation; notice; hearing.** Whenever a petition is filed with the Housing Administrator by a public authority or by at least five residents of the city charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Housing Administrator, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties in interest in such dwellings and dwelling unit a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Housing Administrator (or his designated agent) at a place within the county in which the property is located, fixed, not less than 10 days 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. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Housing Administrator. Notice of the hearing shall also be given to at least one 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.

**(1)** Upon mailing or otherwise serving the complaint and notice of hearing pursuant to subparagraph (A) above, and in any event within a reasonable time thereafter, the Housing Administrator shall file with the office of the Clerk of Superior Court for the County a notice of lis pendens in the manner and form provided for in G.S. § 1-116. Such notice shall be served on owners and parties in interest in the dwelling in the same manner as the complaint and notice of hearing. Upon a finding by the Housing Administrator, after a hearing pursuant to subparagraph (B), that the dwelling is not in violation of the minimum housing code, or upon certification after inspection that the dwelling has been repaired or demolished in accordance with an order issued pursuant to subparagraph (B), the Housing Administrator shall cause the lis pendens notice filed pursuant to this section to be cancelled of record.

State law references: Authority for above section, G.S. § 160A-443

**(B) Procedure after hearing.** After such notice and hearing, the Housing

Administrator shall state in writing his or her determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

(1) If the Housing Administrator determines that the dwelling or dwelling unit is deteriorated, he or she shall state in writing his or her findings of fact in support of the determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter 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.

(2) If the Housing Administrator determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support the determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter, or else to vacate and remove or demolish the same 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.

**(C) Failure to comply with order.**

(1) **In personam remedy.** If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Housing Administrator to repair, alter or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Housing Administrator to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Housing Administrator shall submit to the City Council at its next regular meeting a resolution, directing the City Attorney to petition the Superior Court for an order directing the owner to comply with the order of the Housing Administrator, as authorized by G.S. § 160A-446(g).

(2) **In rem remedy.** After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Housing Administrator within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding division (C)(1), the Housing Administrator shall submit to the City Council an ordinance ordering the Housing Administrator to cause the dwelling or dwelling unit to be repaired, altered, improved, vacated,

closed, removed or demolished, as provided in the original order of the Housing Administrator, and pending removal or demolition, to place a placard on the dwelling as provided by G.S. § 160A-443 and § 151.38. Such ordinance shall be recorded in the Office of the County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.

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

**(1)** 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 the 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 Housing Administrator, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Housing Administrator. 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.

**(2)** 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.

**(E) Petition to Superior Court by owner.** Any person aggrieved by an order issued by the Housing Administrator 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 Housing Administrator pending a final disposition of the cause, as provided by G.S. § 160A-446(f).  
(90 Code, § 4-39)

**(F) Dwelling Constructed, Repaired in Violation of this Article.** In case any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this article or any valid order or decision of the Housing Administrator or board made pursuant to this article, the Housing Administrator or board may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate such 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.

State law references: Remedies, G.S. § 160A-446.

Annotation--When a building was to be demolished as unfit for human habitation, the owner was required to seek judicial review of the order and could not collaterally attack such order by an independent action seeking an injunction, *Axler v. City of Wilmington*, 25 NC App 110, 212 SE2d 510 (1975).

#### **§ 151.42 ALTERNATIVE REMEDIES.**

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise or to enforce this chapter by criminal process as authorized by G.S. § 15A and § 151.99, 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.  
(90 Code, § 4-43)

**(1)** It shall be unlawful for the owner of any dwelling to fail, neglect or refuse to repair, alter or improve the same or to vacate, close, demolish and remove the same, upon order of the Housing Administrator duly made and served as provided in this article, within the time specified in such order.

**(2)** When the Housing Administrator finds that a dwelling is unfit for human habitation or dangerous within the meaning of this article and has notified the owner to such effect, and the time limit set by the Housing Administrator for the correction of defects or vacating same has expired, no person shall receive rentals, offer for rent or occupy such building unfit as a human habitation.

(3) If any occupant fails to comply with an order to vacate a dwelling, the Housing Administrator may cause a civil action to be filed in the name of the city to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Housing Administrator produces a certified copy of an ordinance adopted by the governing body pursuant to section 151.42 (C) (2)) authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the governing body has ordered the housing inspector to proceed to exercise his duties under section 151.42 (A) (B) (C) to vacate and close or remove and demolish the dwelling.

(4) That whenever a determination is made pursuant to section 151.42 that a dwelling must be vacated and closed or removed or demolished under the provisions of this section, notice of the order shall be given by first class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of forty-five (45) days from the mailing of such notice shall be given before removal or demolition by action of the Housing Administrator to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Housing Administrator or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Housing Administrator to wait forty-five (45) days before causing removal or demolition.

#### **§ 151.43 CONFLICT WITH OTHER PROVISIONS.**

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the city, the provision which established the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the city shall prevail.  
(^90 Code, § 4-45)

**§ 151.50 APPLICATION OF THE NORTH CAROLINA STATE BUILDING CODES.**

**The North Carolina State Building Codes, current editions, shall govern all repairs, alterations and/or additions.**

**§ 151.98 VIOLATIONS.**

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Housing Administrator duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense.

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 151.41 to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(^90 Code, § 4-46(A) and (B)) Penalty, see § 151.99

**§ 151.99 PENALTY.**

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

(B) In addition to the penalty established by division (A) above and the remedies provided by other provisions of this chapter, this chapter may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

(^90 Code, § 4-46)