

Chapter 5 - BUILDINGS

Sections:

Article I. - In General

5-1. - Fire limits—Fire district.

It shall be unlawful for any person to erect any wooden building, wooden shed, or building of any kind with a wooden roof, or repair any wooden building within the fire limits (fire district) of the town, which is set out by the following boundary, to-wit:

Beginning at a point in an alley at the northeast intersection of such alley and Eleventh Street between D and E Streets; thence running in a southerly direction with the east margin of Eleventh Street to a point in the east margin of Eleventh Street twenty-five feet south of D Street; thence in an easterly direction parallel with D Street fifteen feet more or less to a point; thence in a southerly direction following the center of the Southern Railway spur line to a point where the Southern Railway tracts intersect with the western margin of North Wilkesboro Boulevard; thence in a southerly direction with the western margin of North Wilkesboro Boulevard to the southwest intersection of North Wilkesboro Boulevard and Cherry Street; thence in an easterly direction with the southern margin of Cherry Street to the southeast intersection of Cherry Street and Sixth Street; thence in a northerly direction with the eastern margin of Sixth Street to the center line of the Southern Railway tracks; thence in an easterly direction with the Southern Railway tracks to the east margin of Fifth Street; thence in a northerly direction with the east margin of Fifth Street to the northeast intersection of Fifth Street and B Street; thence in a westerly direction with the northern margin of B Street to the northeastern intersection of Sixth and B Streets; thence in a northerly direction with the eastern margin of Sixth Street to the northeast intersection of an alley and Sixth Street between B and C Streets; thence in a westerly direction with the northern margin of the alley to the eastern margin of Water Alley; thence in a southerly direction with the eastern margin of Water Alley to the northern margin of B Street; thence in a westerly direction with the northern margin of B Street to a property line located one hundred twenty-five feet east of the northeastern intersection of Eighth Street and B Street; thence in a northerly direction with such property line one hundred ten feet to the southern margin of Kensington Drive; thence in a westerly direction with the southern margin of Kensington Drive to the southeast intersection of Kensington Drive and Eighth Street; thence in a northerly direction with the eastern margin of Eighth Street to the northeast intersection of Eighth and D Streets; thence in an easterly direction with the northern margin of D Street one hundred seventy-five feet to a point in a property line; thence in a northerly direction with such property line one hundred sixty feet to the northern margin of an alley between D and E Streets, thence in a westerly direction with the northern margin of said alley to Eleventh Street being the point of beginning.

5-2. – Building Permits—General provisions.

- a.) 1. No person shall commence or proceed with the construction, reconstruction, alteration, repair, removal or demolition of any building or other structure, or any part thereof, without a written permit therefore from the building inspector; required by the State Building Code and any other State or local laws applicable to any of the following activities: No permit for alteration, repair or construction of any building or structure shall be issued unless the plans and specifications show that the building or structure, and its proposed use, will be in compliance with applicable provisions of the zoning ordinance. Whether or not a zoning permit is needed will be determined by the Zoning Administrator.
- b.) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.

- c.) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit is not required for the connection of a water heater that is being replaced if:
 - i. the work is performed by a person licensed under G.S. 87-21 who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and
 - ii. the energy use rate or thermal input is not greater than that of the water heater that is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.
- d.) The installation, extension, alteration, or general repair of any heating or cooling equipment system.
- e.) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit a permit is not required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced if all of the following requirements are met:
 - i. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.
 - ii. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.
 - iii. The work is performed by a person licensed under G.S. 87-43.
 - iv. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.
- f.) In all cases of removal or demolition of a building or structure, a good or sufficient bond equivalent to the cost of demolition be posted by the property owner or his/her contractor at the time of application for a permit, to insure complete removal of demolition, including all rubble and debris. Failure on the part of the property owner or his/her contractor to completely demolish, remove, and clean the premises, after thirty days' notice by the building inspector, shall be cause for forfeiture of the bond.
- g.) When reviewing residential building plans for any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings, all initial reviews for the building permit must be performed within 15 business days of submission of the plans.
- h.) No building permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and, if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no building permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance or development or zoning regulation requires that work be done by a licensed specialty contractor of any kind, no building permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

5-3. - Application for building permits.

- A. Written application shall be made for all permits required by this chapter, and shall be made on forms provided by the Inspections department. An application shall be made by the owner of the building or structure affected or by his or her authorized agent or representative, and in addition to other information as may be required by the appropriate inspector to enable him or her to determine whether the permit applied for should be issued, shall show the following:
 - 1. Name, residence and business address of owner;
 - 2. Name, residence and business address of authorized representative or agent, if any; and
 - 3. Name and address of the contractor, if any, together with evidence that he or she has obtained a certificate from the appropriate state licensing board for contractors, if it be required for the work involved in the permit for which application is made.
- B. Detailed plans and specifications shall accompany each application for permit unless the project falls under one of the limitations in section 5-3(C). Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this chapter and the appropriate regulatory codes. Where plans and specifications are required, an approved copy thereof shall be kept at the work site until all authorized operations have been completed and approved by the appropriate inspector.
- C. The Town shall not require residential building plans for one- and two-family dwellings to be sealed by a licensed engineer or licensed architect unless required by the North Carolina State Building Code.

5-4. - Limitations regarding issuance of building permits.

- A. A building permit is not required for the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87 of the General Statutes. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with
 - (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or
 - (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subsection applies to all existing installations.
- B. No permit issued under Article 9 or 9C of Chapter 143 of the General Statutes is required for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code costing fifteen thousand dollars (\$15,000) or less in any single-family residence or farm building unless the work involves any of the following:
 - (1) The addition, repair, or replacement of load-bearing structures. However, no permit is required for replacement of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks.
 - (2) The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.

- (3) The addition, replacement, or change in the design of heating, air-conditioning, or electrical wiring, devices, appliances, or equipment, other than like-kind replacement of electrical devices and lighting fixtures.
 - (4) The use of materials not permitted by the North Carolina Residential Code for One- and Two-Family Dwellings.
 - (5) The addition (excluding replacement) of roofing.
- C. The Town shall not require more than one building permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the building permit for such work shall not exceed the cost of any one individual trade permit issued by the Town, nor shall the Town increase the costs of any fees to offset the loss of revenue caused by this provision.
- D. No building permit shall be issued pursuant to this Chapter's section 5-2 for any land-disturbing activity, which is defined in G.S. 113A-52(6), or for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan for the site of the activity or a tract of land including the site of the activity has been approved under the Sedimentation Pollution Control Act. Additionally if the work for land-disturbing activity does not comply with the requirements of G.S. 113A-71 than no building permit shall be issued.
- E. No building permit shall be issued where the cost of the work is thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued.
- F. The Town shall not withhold a building permit or certificate of occupancy/certificate of compliance that otherwise would be eligible to be issued under this Chapter with respect to another property or parcel, completion of work for a separate permit or compliance with land-use regulations under this Chapter unless otherwise authorized by law or unless the local government reasonably determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy/certificate of compliance.
- G. Violation of this section constitutes a Class 1 misdemeanor per GS 160D-1110 (i).
- H. All persons constructing a new building that they shall be advised by the Building Inspector at the time they obtain a building permit that they are required to provide on the site of the building a temporary sanitary toilet for the use of the persons engaged to the construction of the building and any person, firm or corporation failing to make arrangements for a sanitary toilet during the construction shall be in violation of this chapter. Any person, firm or corporation in violation of this chapter shall pay a penalty of ten dollars and the cost for each day that he or she fails to provide a facility for the use of the employees.

5-5. - Issuance and revocation of permit.

- A. When proper application for a permit has been made, and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this chapter, the North Carolina State Building Code and all other appropriate State and Local regulatory codes, he or she shall issue a permit in writing detailing the work approved to be completed upon payment of the proper fee or fees as hereinafter provided in Section 5-7.

- B. The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for revocation. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any building permit mistakenly issued in violation of an applicable State or local law may also be revoked.

5-6. - Permits and period of validity.

All permits issued under this chapter shall expire by limitation six months after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of twelve months, the permit therefor shall immediately expire. No work authorized by any permit which has expired shall thereafter be performed until a new permit therefor has been secured.

5-7. - Fees regarding permits.

Fees associated with the provisions of this chapter shall be in accordance with the most recently adopted fee schedule of the Town of North Wilkesboro.

5-8. - Changes in work after issuance of permit.

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter or of any regulatory code adopted therein, except where changes or deviations are clearly permissible under the State Building Code, shall not be made until specific written approval of the changes or deviations has been obtained from the appropriate inspector.

5-9. Reserved.

Privilege licenses repealed in 2015.

5-10. - Registered contractors required to give bond or proof of liability insurance. (Repealed in 2015).

Every person required to register at the office of the town clerk under the preceding section shall also give a good and sufficient bond in the sum of one thousand dollars or provide to the building inspector, a liability insurance policy conditioned upon faithful performance of duty in doing any work which he or she may have contracted to do, and to indemnify the town against loss in any manner whatsoever for any unskillful or negligent work or conduct in the performance of the duties imposed by the provisions of this chapter or any regulatory code therein adopted, or any damage to any utility lines, streets or sidewalks in the town, or for the use of defective or improper material in the work, or for any damage which may accrue to any person by reason of any default of the contract, or for the payment of any inspection or other fees required by this chapter.

Article II. – Inspections Department

5-11. - Composition of department for building code administration.

The Inspections department for building code administration shall consist of a building inspector, a plumbing inspector, a heating-air conditioning inspector, an electrical inspector and other inspectors or deputy or assistant inspectors as may be authorized by the town manager. The town manager may, in his or her discretion, designate one person to fill any one or more or all of these positions. If more than one person is employed as an inspector, the town manager may designate a member of the department as the department head. The Town may not employ a Building Inspector to enforce the State Building Code who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to the inspector's qualifications to hold such position:

- (i) a probationary certificate,
- (ii) a standard certificate, or
- (iii) a limited certificate which shall be valid only as an authorization to continue in the position held on the date specified in G.S. 143-151.13(c) and which shall become invalid if the inspector does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. 143-151.13(c).

An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position.

5-12. - Conflicts of interest.

No officer or employee of the Inspections department shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building or any part thereof, or in the making of plans or specifications thereof unless he or she is the owner of the building. No officer or employee of the Inspections department shall engage in any work which is inconsistent with his or her duties or with the interests of the town. No member of an inspection department or other individual or an employee of a company contracting with a local government to conduct building inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government. The Town must find a conflict of interest if any of the following apply:

(1) If the individual, company, or employee of a company contracting to perform building inspections for the Town has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual, company, or employee of a company contracting to perform building inspections for the Town is closely related to the owner, developer, contractor, or project manager of the project to be inspected.

(3) If the individual, company, or employee of a company contracting to perform building inspections for the Town has a financial or business interest in the project to be inspected.

The provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years.

5-13. - Department and inspectors—General powers and duties.

- A. Except as may be provided otherwise in this chapter, it shall be the duty of the Inspections department to enforce all of the provisions of this chapter and of the regulatory codes adopted therein, and to make all inspections necessary to determine whether or not the provisions of this chapter and the codes are being met, and for those purposes the department and the inspectors thereof shall have all powers and authority provided by state law, including the North Carolina State Building Code, the Town Charter, this Code and other ordinances within Town Limits.
 - i. The Building Inspector is given the authority to enforce this chapter unless a different inspector or position is noted and appointed accordingly to conduct the enforcement of this chapter or article. The Building Inspector shall advise the person, firm or corporation making an application for a permit of all of these requirements at the time of the application of a building permit.

- B. The North Carolina State Building Code General Construction, the North Carolina Residential Building Code and the existing North Carolina Building Code shall be enforced by the building inspector. The North Carolina Plumbing Code shall be enforced by the plumbing inspector. The North Carolina Mechanical Code shall be enforced by the mechanical inspector. The North Carolina State Electrical Code shall be enforced by the electrical inspector. One Building Inspector may enforce all trades if appropriately certified.
- C. The Building Inspector shall review all construction of buildings and other structures. The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems. The maintenance of buildings and other structures in a safe, sanitary, and healthful condition. Other matters that may be specified by the mayor and board of commissioners.
- D. The Building Inspector shall be the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws.
- E. In performing the specific inspections required by the North Carolina Building Code, the Building Inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

5-14. - Right of entry—Stop orders.

- A. Inspectors shall have the right of entry on any premises within the jurisdiction of the regulatory codes adopted in this chapter, at reasonable hours, for the purpose of inspection or enforcement of the requirements of this chapter and the regulatory codes, upon presentation of proper credentials.
- B. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner, or in violation of any provision of this chapter or any other town ordinance, or in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit or permits issued therefor, or in a manner as to endanger life or property, the appropriate inspector may order work to be immediately stopped. The order shall be in writing to the owner of the property or to his or her agent, or to the person doing the work, and shall state the reasons therefor and the conditions under which the work may be resumed.
- C. The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the Town Building Inspector. The Commissioner of Insurance or his or her designee shall promptly conduct an investigation, and the appellant and the Building Inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his or her designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his or her designee on an appeal, no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the following options:
 - (1) Appealing to the Building Code Council.
 - (2) Appealing to the superior court as provided in G.S. 143-141.
 - (b) The owner or builder may appeal from a stop order involving alleged violation of a local development regulation as provided in G.S. 160D-405.

5-15. - Records and reports.

- a. The Inspections department, and each inspector, shall keep complete, permanent and accurate records in convenient form of all applications received, permits issued, inspections and re-inspections made, and all other work and activities of the inspections department. Periodic reports shall be submitted to the mayor and board of commissioners and to other agencies, as required. Additionally a yearly internal review shall occur of all inspections made. The supervisor of the inspector shall be the review officer. This shall include reviews of all permits issued by the department in compliance with the standards outlined internally set by the Inspections Department.
- b. The Inspections department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and re-inspections made, defects found, certificates of compliance or occupancy granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the Department of Natural and Cultural Resources. Periodic reports shall be submitted to the governing board and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require.

5-16. - Inspection procedure—Certificates of occupancy.

- A. The Inspections department shall inspect all buildings and structures and work therein for which a permit of any kind has been issued, as often as necessary in order to determine whether the work complies with this chapter and the appropriate codes. In exercising this power, members of the inspection department have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.
- B. When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, that no approval shall be based upon reports of organizations unless reports are in writing and certified by a responsible officer of an organization.
- C. All holders of permits, or their agents, shall notify the Inspections department and the appropriate inspector at each of the following stages of construction so that approval may be given before work is continued:
 1. Foundation Inspection. To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles and similar types of foundations shall be inspected as installed.
 2. Framing Inspection. To be made after all structural framing is in place and all roughing-in of plumbing and electrical and heating has been installed, after all fire blocking, chimneys, bracing and vents are installed but before any of the structure is enclosed or covered. Poured in place concrete structural elements shall be inspected before each pour of any structural member.
 3. Fireproofing Inspection. To be made after all areas required to be protected by fireproofing are lathed, but before the plastering or other fireproofing is applied.
 4. Final Inspection. To be made after building or structure has all doors hung, fixtures set, and ready for occupancy, but before the building is occupied.
- D. Requests for inspections may be made to the department of inspections or to the appropriate inspector. The inspections department shall make inspections as soon as practicable after request is made therefor, provided the work is ready for inspection at the time the request is made.

- E. Re-inspections may be made at the convenience of the inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his or her agent. Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this chapter.
- F. Where the applicant for a permit proposes to erect any building or structure on the line of any street or other public place, he or she shall secure a survey of the line of the street or other public place, adjacent to the property upon which building or structure is to be erected, before proceeding with construction of the building or structure. It shall be the duty of the Building Inspector to see that the building does not encroach upon the street or other public place.
- G. No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Inspections department has issued a certificate of occupancy therefor. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building. Application for a certificate of occupancy may be made by the building owner or his or her agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary to determine compliance with this chapter, the appropriate regulatory codes and the zoning ordinance for the occupancy intended. The Inspections department shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this chapter, the regulatory codes and the zoning ordinance for the occupancy intended.

5-17. - Oversight, neglect by inspector & Appeals.

No oversight or dereliction of duty on the part of any inspector or other official or employee of the Inspections department shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code therein adopted.

- a) If any employee of the Inspections department willfully fails to perform the duties required by law, or willfully improperly issues a building permit, or issues a certificate of compliance without first making the inspections required by law, or willfully gives a certificate of compliance improperly, the member shall be guilty of a Class 1 misdemeanor.
- b) An employee of the Inspections department shall not be in violation of section 5.17 a) when the Town, its inspections department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160D-1104(d).

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws shall be taken to the Commissioner of Insurance or the Commissioner's designee or other official specified in G.S. 143-139 by filing a written notice with the Commissioner and with the inspection department within a period of 10 days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

Article III. - Regulatory Codes

5-18. - Applicability of chapter and regulatory codes herein adopted.

This chapter is in addition to, and not in substitution for, any other provision of this Code or other ordinance affecting the same subject matter.

- A. The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:
1. The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every building or structure or any appurtenances connected or attached to a building or structure;
 2. The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems and all fixtures and appurtenances thereof;
 3. The installation, erection, alteration, repair, use and maintenance of mechanical systems and appurtenances thereof; and
 4. The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof.
- B. The adoption of this chapter and the codes herein adopted by reference shall constitute a resolution within the meaning of G.S. Section 143-138(b), as to making the regulatory codes herein adopted applicable to dwellings and outbuildings used in connection therewith and to apartment buildings used exclusively as the residence of not more than two families.

5-19. - Building Code adopted.

The North Carolina Building Code: Building Code, and Existing Building Code 2018, and all relevant appendices and all future appendices and amendments, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Building Code of the town, to the extent that the code is applicable for safe and stable design, methods of construction, minimum standards and use of materials in building of structures hereafter erected, enlarged, altered, repaired or otherwise constructed or reconstructed.

5-20. - Plumbing Code adopted.

The Plumbing Code, 2018 edition, and all relevant appendices, (North Carolina State Building Code, Plumbing Code, 2018 edition), as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Plumbing Code for the town.

5-21. - Energy Code adopted.

The Energy Code, 2018 edition, and all relevant appendices, (North Carolina State Building Code, Energy Code, 2018 edition) as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Energy Code for the town.

5-22. - Electrical Code adopted.

The Electrical Code, 2017 edition, and all relevant appendices, (NFPA 70, National Electrical Code, 2017 edition), as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Electrical Code for the town.

5-23. - Residential Code adopted.

The North Carolina State Building Code: Residential Code, 2018 edition or existing approved edition, and all relevant appendices, as adopted and as published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Residential Code in the town.

5-24. - Mechanical Code adopted.

The Mechanical Code, 2018 edition, and all relevant appendices, as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Mechanical Code for the town.

5-25. - Accessibility Code adopted.

The Accessibility Code, 2018 edition, North Carolina State Building Code; (ex. Chapter 11) and all relevant appendices, as adopted and published by the North Carolina Building Code Council and as amended and the 2009 ANSI ICC A117.1 Standard, is hereby adopted by reference as fully as though set forth herein as the Accessibility Code for the town.

5-26. - Fuel Gas Code adopted.

The Fuel Gas Code, 2018 edition, and all relevant appendices, as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Fuel Gas Code for the town.

5-27. - Fire Prevention Code adopted.

The Fire Prevention Code, 2018 edition, and all relevant appendices, as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Fire Prevention Code for the town.

5-28. - Regulations for manufactured homes adopted.

The state of North Carolina Regulations for Manufactured Homes, 2019 edition, and all relevant appendices, as adopted and published by the North Carolina Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the regulations for manufactured homes for the town.

5-29. - Administration and Enforcement Requirements Code adopted.

The Administration and Enforcement Requirements Code, 2018 edition, and all relevant appendices, as adopted published by the North Carolina Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Administration and Enforcement Requirements Code for the town.

5-30. - Amendments to codes herein adopted.

Amendments to the regulatory codes adopted by reference herein, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time the amendments are adopted by the mayor and board of commissioners and filed with the Building Inspectors provided in Section 5-32.

5-31. - Required compliance with codes.

- A. All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished or moved shall conform to the requirements, minimum standards and other provisions of either the North Carolina State Building Code: Building Code, or the North Carolina State Building Code: Residential Code, or the existing North Carolina Building Code whichever is applicable.
- B. Every building or structure intended for human habitation, occupancy or use shall have plumbing, plumbing systems or plumbing fixtures installed, constructed, altered, extended, repaired or reconstructed in accordance with the minimum standards, requirements and other provisions of the North Carolina Plumbing Code.

- C. All mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel burning equipment and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the North Carolina Mechanical Code.
- D. All electrical wiring, installations and appurtenances shall be erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the North Carolina Electrical Code.

5-32. - Copies of codes to be on file in department of planning & inspections.

An official copy of each regulatory code adopted herein, and official copies of all amendments thereto, shall be kept on file in the office of planning and inspections. The copies shall be the official copies of the codes and the amendments.

Article IV. - Unsafe Buildings

5-33. - Defects in buildings to be corrected.

When the Building Inspector finds defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be the inspector's duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property.

5-34. - Building inspector—Order of condemnation.

- A. Any building or structure or part thereof, partially destroyed or otherwise, which is found by the Building Inspector to be in a dilapidated state of disrepair or other substandard condition as to be dangerous to life, health or other property, or to constitute a fire or safety hazard or a public nuisance shall be declared by the Building Inspector to be unsafe.
- B. Any building that shall appear to the Building Inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress, or other causes shall be held to be unsafe.
- C. The Building Inspector shall have authority, and it shall be his or her duty, to declare all those buildings or structures unsafe and to take appropriate action to have the conditions corrected or removed.
- D. The declaration by the Building Inspector shall constitute an order of condemnation for the purposes of this chapter.
- E. The Building Inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.
 - i. If any person shall remove any notice that has been affixed to any building or structure by the Building Inspector that states the dangerous character of the building or structure, that person shall be guilty of a Class 1 misdemeanor per 160D-1120.

5-35. - Duty of owner to comply with order—Procedure—Recourse.

Whenever any building or structure has been condemned by the Building Inspector, and the existence of the building or structure in a dilapidated state of disrepair or other substandard condition is found and determined by the Building Inspector or, upon appeal from or report by the Building Inspectors

hereafter provided, by the mayor and board of commissioners to be dangerous to life, health or other property, or is in a condition as to constitute a fire or safety hazard or a public nuisance, the owner of the building or structure shall be required to demolish and remove the same and remedy conditions under the regulations and procedures herein provided; and in the event the owner fails or refuses so to do within the time directed by the Building Inspector or by the mayor and board of commissioners, as hereinafter provided, the mayor and board of commissioners, may, in their judgment, cause the same to be demolished and removed or other steps taken as they may find to be necessary to suppress and abate the nuisance and remove the fire or safety hazard and the danger to life, health or other property found to exist, and specially assess the cost and expense of doing work against the lot or parcel of land on which the building or structure is located.

5-36. - Action in event to take corrective action.

Before any building or structure may be ordered to be demolished and removed as provided in Section 5-35, the Building Inspector shall notify the owner thereof, in writing, by certified mail to the last known address of the owner, or by personal service of notice by the Building Inspector or his or her assistant.

(1) In the notice the following shall be included that the building or structure is in a condition that appears to meet one or more of the following conditions:

- a. Constitutes a fire or safety hazard.
- b. Is dangerous to life, health, or other property.
- c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
- d. Has a tendency to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(2) That an administrative hearing will be held before the Building Inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner will be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the local government's area of jurisdiction at least once not later than one week prior to the hearing.

5-37. - Order after hearing—Remedy or demolish building.

If, upon hearing, the Building Inspector shall find that the building or structure in question is in a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health or other property, or is a public nuisance, he or she shall make an order in writing, directed to the owner of the building or structure, requiring the owner to remedy the conditions so found to exist by demolishing and removing the building or structure or taking other steps as may be necessary to abate the nuisance and remove the hazards, within a period, not less than sixty days, as the Building Inspector prescribed.

5-38. - Right to appeal—Finality of order if not appealed.

The owner of any building or structure ordered by the Building Inspector to be demolished and removed, or who is directed by the Building Inspector to take any other steps to abate a nuisance or remove hazards found by the Building Inspector to exist, shall have the right of appeal from orders to the mayor and board of commissioners; provided, that the owner gives written notice of appeal to the Building Inspector and the Town Clerk within ten days after the order is made. In the absence of an appeal, the

order of the inspector is final. The mayor and board of commissioners shall hear an appeal in accordance with G.S. 160D-406 and render a decision within a reasonable time. The mayor and board of commissioners may affirm, modify and affirm, or revoke the order.

5-39. - Building Inspector report upon noncompliance of owner

The Building Inspector may additionally file a written report thereof with the town clerk, who shall cause the report to be placed on the agenda for information to the mayor and board of commissioners at their next ensuing regular meeting or to some subsequent meeting to which they may continue the same.

5-40. – Enforcement.

- A. Whenever any violation is denominated a misdemeanor under the provisions of this chapter, the town, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.
- B. In the case of a building or structure declared unsafe under 5-34 of this chapter, the Town may, in lieu of taking action under 5-40 A., may instead cause the building or structure to be removed or demolished. The amounts incurred by the Town in connection with the removal or demolition are a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of Chapter 160A of the General Statutes. If the building or structure is removed or demolished by the Town, the Town may sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The Town shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the Wilkes County clerk of superior court and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.
- C. The amounts incurred by the Town in connection with the removal or demolition are also a lien against any other real property owned by the owner of the building or structure and located within the local government's planning and development regulation jurisdiction. The provisions of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.
- D. Nothing in this section shall be construed to impair or limit the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

5-41. – Reserved.

5-42. – Reserved.

5-43. - Violations and penalties.

- A. If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160D-1122 from which no appeal has been taken or fails to comply with an order of the mayor and board of commissioners following an appeal, the owner is guilty of a Class 1 misdemeanor.
- B. It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the Building Inspector or the mayor and board of commissioners made by virtue and in pursuance of this chapter, and any person violating this chapter shall, upon conviction, be punished as provided by G.S. Section 14-4 for the violation of municipal ordinances, and every day a person shall willfully fail or refuse to comply with any final order or direction of the Building Inspector or mayor and board of commissioners made by virtue and in pursuance of this chapter shall constitute a separate and distinct offense.

Article V. - Minimum Housing Standards

5-44. - Findings—Purpose—Authority.

- A. Pursuant to G.S. Section 160D-1201, it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering the dwellings unsafe and unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.
- B. In order to protect the health, safety and welfare of the residents of the town, 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. Section 160D-1205.
- C. In addition, it is hereby found and declared, under the authority of G.S. Section 160A-174 (verified), that there exist in the town dwellings which, although not meeting the classification as unfit for human habitation, fail to fully comply with all the minimum standards for housing fitness as established herein and therefore have present one or more conditions which are inimical to the public health, safety and general welfare. These conditions, if not corrected, can lead to deterioration and dilapidation of dwellings, which render them unfit for human habitation.

5-45. - Scope.

- A. This section is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof which are public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, rooming houses or buildings, structures or premises used or intended for use.
- B. The provisions of this chapter shall apply to all existing housing and to all housing hereafter constructed within the corporate limits of the town. Portable, mobile or demountable buildings or structures, including trailers, manufactured homes and mobile homes when used or intended for use for housing within the jurisdiction, shall be subject to the applicable provisions of this section. This chapter establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this chapter.
- C. The provisions of this chapter shall also apply to abandoned structures which are found by the mayor and board of commissioners to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary conditions.

5-46. - Definitions.

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

"Abandoned structure": any structure, whether designed and intended for residential or other uses, which has been vacant or not in active use, regardless of purpose or reason, for the past two-year period and which is determined by the housing inspector to be unfit for human habitation or occupancy based upon the standards as set forth in this chapter.

"Basement": a portion of a building which is located partly or completely underground.

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

"Deteriorated dwelling": a dwelling that is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of fifty percent of its value, as determined by finding of the housing inspector.

"Dilapidated dwelling": a dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of fifty percent of its value, as determined by finding of the housing inspector.

"Dwelling": any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith.

"Dwelling unit": any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

"Extermination": the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the housing inspector.

"Garbage": the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies, insects or animals.

"Habitable room": a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, toilet compartments, laundries, heater rooms, foyers or corridors, closets and storage spaces.

"Housing inspector": the person appointed by the town manager to carry out the administration and enforcement of this chapter.

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

"Manufactured home (mobile home)": a structure as defined in G.S. Section 143-145(7).

"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 unit or rooming unit.

"Operator": any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

"Owner": the holder of the title in fee simple and every mortgagee of record.

"Parties in interest": all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

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

"Public officer": any housing inspector, code enforcement officer or any officer who is authorized in exercising the powers prescribed by the ordinances and by this Chapter. Appointment of this position is by the Town Manager.

"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 and wife, son or daughter, mother or father or sister or brother of, the owner or operator.

"Rooming unit": any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

"Rubbish": combustible and noncombustible waste materials except garbage and ashes, and the term shall include, but not be limited to: paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

"State building code": the North Carolina State Building Code or any superseding regulation.

"Supplied": paid for, furnished or provided by, or under the control of, the owner or operator.

B. 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."

5-47. - Office of housing inspector of minimum housing created—Powers and duties.

For the purposes of administering and enforcing the provisions of this chapter, the office of the minimum housing inspector is hereby created. An annual estimate must be completed and incorporated into the Town's budgeting process of the fiscal year's expenses or costs to provide the equipment, personnel, and supplies necessary to execute this chapter. The Town is authorized to make appropriations from its revenues necessary for this purpose and may accept grants or donations to assist it.

A. Powers and duties:

The housing inspector is hereby designated as the officer to enforce this chapter and exercise the powers prescribed in this chapter. It shall be the duty and powers of the housing inspector to:

1. To investigate the dwelling and building conditions in the town in order to determine which dwellings therein are unfit for human habitation and dangerous, being guided in examination of dwellings and buildings by the requirements set forth in this chapter;
2. Take appropriate action in coordination with the other Town departments, agencies, public and private, as necessary to ensure rehabilitation of housing which is deteriorated;
3. Keep adequate records of all cases, results of inspections made per this chapter's authority and inventory of all properties that do not meet the minimum standards as stated in this chapter; and
4. Perform other duties as this chapter prescribes;
5. To administer oaths and affirmations and to examine witnesses and receive evidence.
6. To enter upon and within premises and dwellings for the purpose of making examinations and investigations; provided, that entries shall be made in a manner as to cause the least possible inconvenience to the persons in possession.
7. To swear criminal warrants, administrative inspection warrants, issue civil citations and to take other actions as may be necessary to carry out the enforcement procedures of this chapter.
8. To delegate any of his or her functions and powers under this chapter to officers and agents.

5-48. - Inspections.

- a. For the purpose of carrying out the intent of this chapter, the housing inspector, upon proper identification and/or credentials, is hereby authorized to enter, examine and survey at all reasonable hours all dwellings, dwelling units, rooming houses, rooming units on premises, including abandoned structures. The owners or occupants of every dwelling, dwelling unit, rooming unit or rooming house, or the person in charge thereof, shall give the housing inspector free access to the dwelling, dwelling unit, rooming house or rooming unit and its premises at all reasonable hours for the purposes of inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of the dwelling or dwelling unit, and its premises, at all reasonable hours for the purpose of making 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.

5-49. - Preliminary investigations—Notices—Hearings.

Whenever a petition is filed with the housing inspector by a public authority or by at least five residents of the town charging that any dwelling is unfit for human habitation or whenever it appears to the housing inspector (on his or her own motion) that any dwelling is unfit for human habitation, the housing inspector shall, if his or her preliminary investigation discloses a basis for those charges, issue and cause to be served upon the owner and parties in interest in the dwellings a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the housing inspector (or his or her designated agent) at a place within the town therein fixed not less than ten days nor more than thirty days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the housing inspector. Upon the issuance of a complaint and notice of hearing pursuant to this section, the inspector may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing attached thereto, in the office of the clerk of superior court of Wilkes County, to be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. The inspector shall cause a copy of the notice of lis pendens to be served upon the owners and parties in interest in the dwelling at the time of filing in accordance with G.S. Section 1.120.2, as applicable. Upon compliance with the requirements of any order issued based upon a complaint and hearing, the inspector shall direct the clerk of superior court to cancel the notice of lis pendens.

5-50. - Dwelling unfit for human habitation.

The housing inspector shall determine that a dwelling is unfit for human habitation if he or she finds that any one of the following conditions exist in a dwelling:

- A. Interior walls or vertical studs which seriously list, lean or buckle to an extent as to render the dwelling unsafe;
- B. Supporting member or members which show thirty-three percent or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which show fifty percent or more of damage or deterioration;
- C. Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used;
- D. Damage by fire, wind or other causes as to render the dwelling unsafe;
- E. Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people in the town;
- F. Inadequate facilities for egress in case of fire or panic;
- G. Defects significantly increasing the hazards of fire, accident or other calamities;
- H. Lack of adequate ventilation, light, heating or sanitary facilities to the extent as to endanger the health, safety or general welfare of the occupants or other residents of the town;
- I. Lack of proper electrical, heating or plumbing facilities required by this chapter which constitutes a definite health or safety hazard; and
- J. Lack of connection to a potable water supply and/or to the public sewer or other approved sewage disposal system, the lack of either one of which renders a dwelling unfit for human habitation. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been cut off because of nonpayment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

5-51. - Structural standards.

In addition to the ten conditions stated in Section 5-50, any one of which renders a dwelling unfit for human habitation, the housing inspector shall determine that a dwelling is unfit for human habitation if he or she finds that a dwelling fails to fully comply with seven or more of the following enumerated standards of dwelling fitness:

- A. Structural Integrity. Walls, partitions, supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.
- B. Supports. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- C. Foundations. Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- D. Steps. Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in a condition that they will not fail or collapse.
- E. Egress. Adequate facilities for egress in case of fire or panic shall be provided.
- F. Interior Materials. Interior walls and ceilings of all rooms, closets and hallways shall be furnished of suitable materials which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- G. Weatherization. The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.
- H. Chimneys. There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in a condition or location as to constitute a fire hazard.
- I. Floors. There shall be no use of the ground for floors, or wood floors on the ground.

5-52. - Plumbing standards.

- A. Facilities. Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been cut off because of non-payment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.
- B. Maintenance. All plumbing fixtures shall meet the standards of the ~~town~~ Plumbing Code and shall be maintained in a state of good repair and in good working order.
- C. Accessible. All required plumbing fixtures shall be located within the dwelling and be accessible to the occupants of the same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

5-53. - Heating standards.

- A. Every dwelling shall have facilities for providing heat in accordance with either subsection B or C of this section. The facilities shall be maintained in a state of good repair and good working order.
- B. Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of sixty-eight degrees Fahrenheit measured at a point three feet above the floor with an outside temperature of 20 degrees Fahrenheit.

- C. Where a central or electric heating system is not provided, each dwelling shall be provided with sufficient electrical receptacles, fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of sixty-eight degrees Fahrenheit measured three feet above the floor.
- D. If a dwelling unit contains a heating system or heating appliances that meet the requirements of subsection (b) or (c) of this section, the owner of the dwelling unit shall not be required to install a new heating system or heating appliances, but the owner shall be required to maintain the existing heating system or heating appliances in a good and safe working condition. Otherwise, the owner of the dwelling unit shall install a heating system or heating appliances that meet the requirements of subsection (b) or (c) of this section and shall maintain the heating system or heating appliances in a good and safe working condition.

5-54. - Electrical standards.

- A. Wiring. Every dwelling shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall type electrical convenience receptacles, connected in a manner as determined by the Electric 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 habitable room shall contain at least three floor or wall-type electric convenience receptacles.
- B. Hall Lights. Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural light is not sufficient.
- C. Maintenance. All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the Electric Code.

5-55. - Ventilation standards.

- A. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent of the floor area of a room. Whenever walls or other portions of structures face a window of any room and light obstructions are located less than five feet from the window and extend to a level above that of the ceiling of the room, 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 a room, the total window area of skylight shall equal at least fifteen percent of the total floor area of the room.
- B. Every habitable room shall have at least one window or skylight which can easily be opened, or another device as will adequately ventilate the room. The total openable window area in every habitable room, shall be equal to at least forty-five percent of the minimum window area size or minimum skylight type window size as required, or shall have other approved equivalent ventilation.
- C. Every bathroom equipped with more than one water closet compartment shall comply with the light and ventilation requirements for habitable rooms.

5-56. - Space, use and location standards.

- A. Ceiling Height. Every habitable room shall have a ceiling height of not less than seven feet.
- B. Cellar. No cellar shall be used for living purposes unless:
 - 1. The floor and walls are substantially watertight;
 - 2. The total window area, total openable window area and ceiling height are equal to those required for a habitable room; and
 - 3. The required minimum window area of every habitable room is entirely above the grade adjoining the window area, except where the windows face a stairwell, window well or access way.

5-57. - Safe and sanitary maintenance standards.

- A. Exterior Foundation, Walls and Roofs. Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance of penetration of moisture or the weather.
- B. Interior Floors, Walls and Ceilings. Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- C. Windows and Doors. Every window, exterior door, basement or cellar door and hatchway shall be substantially weather tight, watertight and rodent proof; and shall be kept in sound working condition and good repair.
- D. Stairs Porches and Appurtenances. Every inside and outside stair, porch and any appurtenances thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.
- E. Bathroom and Kitchen Floors. Every bathroom and kitchen floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the floor to be easily kept in sound condition and good repair.
- F. Supplied Facilities. Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- G. Drainage. Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
- H. Smoke Detector Systems.

Every dwelling shall be equipped with smoke detectors installed to protect occupants in all sleeping areas. Operable smoke alarms, shall be either battery-operated or electrical, having an Underwriters' Laboratories, Inc. listing or other equivalent national testing laboratory approval, and installed in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions.

1. Every dwelling shall have a minimum of one operable carbon monoxide alarm per rental unit per level, either battery-operated or electrical, that is listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, and install the carbon monoxide alarms in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions.
2. A carbon monoxide alarm may be combined with smoke alarms if the combined alarm does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke alarms; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.
3. The requirements in subsections H. (2.) and H (3.) above apply only to dwelling units having a fossil-fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage.

5-58. - Insect, rodent and infestation control standards.

- A. Screens. For protection against mosquitoes, flies and other insects every dwelling shall have:
 - 1. Supplied and installed screens on every door opening leading directly from the dwelling to outdoor space, except that sliding doors, doors with self-closing devices, doors on mobile homes with self-closing devices and doors that open into rooms of living spaces that are artificially ventilated or air conditioned are exempt from this provision.
 - 2. Supplied and installed screens on every window or other device with an opening to outdoor space, except that this requirement shall not apply for any room or rooms of a dwelling that are ventilated year round with an operable and installed heating and air conditioning system.
- B. Rodent Control. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or other approved device as will effectively prevent their entrance.
- C. Infestation. Every dwelling shall be maintained in a manner to be free of any infestations of insects, rodents or other pests. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for the extermination whenever his or her dwelling unit is the only one infested. 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 shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of the dwelling or dwelling unit shall be responsible for the removal of rubbish.
- E. Garbage Storage and Disposal. Every dwelling shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage container as required by town ordinances.

5-59. - Rooming house standards.

- A. All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter, shall be applicable to rooming houses, and to every person who operates a rooming house or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following divisions:
 - 1. 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 the facilities are shared. All facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway and shall not be more than 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.
 - 2. Sanitary Conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; and shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.
 - 3. Sanitary Facilities. Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection A of this section shall be located within the rooming house and within a

room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

- B. Full compliance with a standard means that if any part of the stated standard is not complied with by a particular dwelling then that dwelling has failed to fully comply with the enumerated standard. For example, in regard to Section 5-52(A), if all standards are met in a dwelling except that a supply of hot water is not provided then the dwelling fails to fully comply with Section 5-52(A).

5-60. - Dwellings not in compliance—Not unfit for human habitation.

- A. In any case where the housing inspector determines that a dwelling fails to fully comply with one or more but less than seven of the above enumerated standards of dwelling fitness, the dwelling shall not be found to be unfit for human habitation and shall not be subject to the procedures and remedies as provided for in this chapter for dwellings unfit for human habitation. Each failure of noncompliance, however, shall constitute a violation of the terms of this chapter and shall subject the violator to the penalties and enforcement procedures, civil or criminal or both, of Section 5-70.
- B. In making the determination as described in this section, the housing inspector shall not be required to make notice and hold the hearing as called for in Section 5-49, but the housing inspector may do so if the determination of the severity and classification of dwelling fitness is not clear to the housing inspector upon preliminary investigation.

5-61. - Procedure after hearing—Order.

- A. If, after notice and hearing, the housing inspector determines that the dwelling under consideration is unfit for human habitation in accordance with the standards set forth above, he or she shall state in writing his or her findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:
 - 1. If the repair, alteration or improvement of the dwelling can be made at a cost of less than fifty percent of the value of the dwelling, requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation, based upon the housing inspector's standards for closing dwellings; or
 - 2. If the repair, alteration or improvement of the dwelling cannot be made at a cost of less than fifty percent of the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish the dwelling. If, after notice and hearing, the housing inspector determines that the dwelling under consideration is not unfit for human habitation but is not in full compliance with one or more standards of dwelling fitness as set forth above, he may proceed with the enforcement procedures of Section 5-71 of this chapter, civil or criminal or both.
- B. Whenever a determination is made pursuant to subsection A or (A) (2) of this section 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 those notices. A minimum period of forty-five days from the mailing of notice shall be given before removal or demolition by action of the inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease or purchase the property for the purpose of providing affordable housing. The inspector shall certify the mailing of the notices, and the certifications shall be conclusive in the absence of fraud. Only an organization that has filed a written request for notices may raise the issue of failure to mail notices, and the sole remedy shall be an order requiring the inspector to wait forty-five days before causing removal or demolition.

5-62. - Failure to comply with order.

- A. If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the housing inspector may:

1. Cause the dwelling to be repaired, altered or improved or to be vacated and closed; or
 2. Cause to be posted on the main entrance of any dwelling, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a violation of this chapter.
- B. If the owner fails to comply with an order to remove or demolish the dwelling, the housing inspector may:
1. Cause the dwelling to be vacated and removed or demolished; or
 2. Cause to be posted on the main entrance of any dwelling, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a violation of this chapter.
- C. The duties of the housing inspector set forth in section (5-47) shall not be exercised until the mayor and board of commissioners shall have, by ordinance, ordered the housing inspector to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the housing inspector shall have found to be unfit for human habitation and which property or properties shall be described in this chapter. 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 the Housing Code. For the purposes of this subsection, a period of ninety days following the date of the Housing Inspector's order shall constitute a reasonable opportunity. This order shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.
- D. The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the housing inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Section 160D 1203. If the dwelling is removed or demolished by the housing inspector, he or she shall sell the materials of the dwelling, and any personal property, fixture or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the housing inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order of the decree of the court.
- E. If any occupant fails to comply with an order to vacate dwelling, the housing inspector may file a civil action in the name of the town to remove the occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any persons occupying the dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. Section 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and at the hearing the housing inspector shall have produced the certified copy of the ordinance adopted by the board of commissioner pursuant to subsection C authorizing the housing inspector to proceed to vacate the occupied dwelling, the magistrate shall have the authority to 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. Section 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. Section 7A-228, and the execution of that judgment may be stayed as provided in G.S. Section 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection, unless the occupant was served with notice at least thirty days before the filing of the summary ejectment proceeding that the mayor and board of commissioners has ordered the housing inspector

to proceed to exercise his or her duties under subsections A, B and C of this section to vacate and close or remove and demolish the dwelling.

5-63. - Service of complaints and orders.

- A. Complaints or orders issued by an inspector shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- B. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least not later than the time at which personal service would be required under the provisions of this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

5-64. - Appeals.

- A. The board of adjustment is hereby appointed as the housing appeals board to which appeals from any decision or order of the housing inspector may be taken. Except where this chapter provides for different rules or procedures, the board of adjustment acting as the housing appeals board shall follow its rules of procedure, which may be amended to provide specifically for this function.
- B. An appeal from any decision or order of the housing inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the town. Any appeal from the housing inspector shall be in writing and shall be taken within ten days from the rendering of the decision or service of the order by filing with the housing inspector and with the board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the housing inspector shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the housing inspector refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the housing inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the housing inspector certifies to the board after the notice of appeal is filed with him or her, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day written notice to the housing inspector, by the board, or by a court of record upon petition made pursuant to subsection E of this section.
- C. The board of adjustment shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the housing inspector, but the concurring vote of four-fifth of the members of the board shall be necessary to reverse or modify any decision or order of the housing inspector. The board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the chapter, to adapt the application of the chapter to the necessities of the case to the end that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.

- D. Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen days of the decision of the board, but not otherwise.
- E. Any person aggrieved by an order issued by the housing inspector or a decision rendered by the board may petition the superior court for an injunction, restraining the housing inspector from carrying out the order or decision and the court may, upon the petition, issue a temporary injunction restraining the housing inspector pending a final disposition of the cause. The petition shall be filed within thirty days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within twenty days, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter the final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

5-65. - Alternative remedies.

- A. Nothing in this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this chapter shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in Section 5-70 of this chapter.
- B. No dwelling shall be hereafter erected, altered, moved or changed in occupancy without a certificate of occupancy. In any case where the housing inspector, after notice and hearing as required herein, finds that a dwelling or dwelling unit is unfit for human habitation, he or she shall withhold issuance of a certificate of occupancy for the dwelling or dwelling unit until the time that he or she determines that it is fit for human habitation. In addition, in any case where the housing inspector, after preliminary investigation as provided for herein, concludes, based upon that investigation, that a dwelling or dwelling unit is unfit for human habitation and believes that the occupancy of the dwelling or dwelling unit could cause imminent peril to life or property from fire or other hazards, he or she shall withhold issuance of a certificate of occupancy for the dwelling or dwelling unit until a time that he or she determines that it is fit for human habitation.
- C. If any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this chapter or of any valid order or decision of the housing inspector or board made pursuant to any ordinance or code adopted under authority of this chapter, the housing inspector may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or occupancy, to restrain, correct or abate the violation, to prevent the occupancy of the dwellings, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

5-66. - Conflict with other provisions.

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

5-67. - Repeal and reenactment of existing housing code.

The rewriting of this chapter in part carries forth by reenactment some of the provisions of the existing Housing Code of the town of North Wilkesboro and it is not intended to repeal but rather to reenact and continue in force existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the Housing Code which are not reenacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of the Housing Code in effect, which are now pending in any of the courts of this state or of the United States,

shall not be abated or abandoned by reason of the adoption of this chapter, but shall be prosecuted to their finality the same as if this chapter had not been adopted; any and all violations of the existing chapter, prosecutions for which have not been instituted may be filed and prosecuted; nothing in this chapter shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may have been instituted or prosecuted.

5-68. - Validity.

- A. If any section, division, sentence, clause or phrase of this chapter is for any reason held to be invalid, the decision shall not affect the validity of the remaining portions of this chapter. The board of commissioners hereby declares that it would have passed this chapter and each section, subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, divisions, sentences, clauses or phrases be declared invalid.
- B. All ordinances in conflict with the provisions of this chapter are hereby repealed to the extent of conflict.
- C. This chapter shall become effective upon its adoption by the board of commissioners of the town of North Wilkesboro, North Carolina.

5-69. - Violations.

In addition to the conditions, acts or failures to act that constitute violations specified in this chapter above, it shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the inspector duly made and served as herein provided, within the time specified in the order. It shall be unlawful for the owner of any dwelling, with respect to which an order has been issued pursuant to Section 5-61, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition.

5-70. - Penalties.

- A. **Criminal Penalties.** Any person, firm or corporation who violates the provisions of this chapter or fails to comply with any of its requirements shall, upon conviction, be guilty of a Class 3 misdemeanor and shall be fined not more than a maximum of five hundred dollars, as provided in North Carolina General Statutes Section 14-4. The housing inspector may refer a violation to the district attorney for institution of criminal prosecution of the alleged violator.
- B. **Civil Penalties.** The following civil penalty amounts are hereby established:
 - 1. Notice of Violation. Correct violation within the specified timeframe;
 - 2. First civil penalty citation: fifty dollars;
 - 3. Second and subsequent civil penalty citation(s) for same offense: one hundred dollars;

Each day the violation remains uncorrected shall constitute a separate violation that subjects the violator to additional civil penalties. In addition to civil penalties rendered, the violator may be required to pay any and/or all attorney's fees in the collection of monetary penalties or fees.

Article VI, Non-Residential Buildings or Structures Standards (REFORMATTED)

5-71.- Title.

This Article shall be known as the "Non-Residential Buildings or Structures Standards" for the Town of North Wilkesboro, and may be cited as such, and will be referred to hereinafter as "this Article."

5-72.- Purpose.

It is the purpose of the provisions of this Article to provide a just, equitable and practicable method to evaluate whether non-residential buildings or structures fail to meet minimum standards of maintenance, sanitation, and safety established by the Board of Commissioners.

The minimum standards address conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The provisions of this Article are cumulative with and in addition to any other remedy provided by law including the current editions of standard codes adopted by the Town of North Wilkesboro.

5-73. - Findings; Authority.

Pursuant to Chapter 160D-1129 of the General Statutes of North Carolina, it is hereby found and declared that there exist in the Town non-residential buildings or structures which are unsafe and especially dangerous to life because of liability to fire or because of bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress and other causes.

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

5-74. - Scope; Jurisdiction.

The provisions of this Article shall apply to all existing non-residential buildings or structures and to all non-residential buildings or structures hereafter constructed **within the Town Limits' Central Business District (CBD) and General Business District (GB) as now or hereafter established.**

5-75. - General Definitions and Interpretations.

Unless specifically defined in 5-76, words used in the Non-Residential Buildings or Structures Standards shall have their respective customary dictionary definitions. For the purpose of these regulations, certain words, terms or phrases used herein are interpreted and defined as follows:

- Words used in the present tense shall include the future tense.
- Words used in the singular shall include the plural and words used in the plural shall include the singular.
- The words "shall" and "will" always indicate MANDATORY. The words "should" and "may" always indicate OPTIONAL.
- The word "lot" includes the words "plot" and/or "parcel".
- The word "building" includes the word "structure".
- The word "person" includes a "firm, association, organization, partnership, trust, company, corporation and/or individual".

- The word "use" includes the terms "arranged, designed, and/or intended" for a use, activity and/or purpose.
- The term "Board of Adjustment" shall always indicate the Board of Adjustment of The Town of North Wilkesboro, North Carolina as created and appointed by the Board of Commissioners of the Town of North Wilkesboro.
- The term "Town Board of Commissioners" shall always indicate the Board of Commissioners of The Town of North Wilkesboro, North Carolina.

5-76. - Special Definitions and Interpretations.

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

"Building": Any covered structure intended for shelter, housing or enclosure of persons, animals, facilities, equipment or chattels; the term Building shall be construed to include the term Structure; furthermore, it shall be construed as if followed by the term or part thereof.

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

"Building, Principal": A building in which the principal use of the lot, parcel or tract is conducted.

"Building Code": The North Carolina State Building Code.

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

"Fire Hazard": (see also Nuisance) Anything or act which increases, or may cause an increase of, the hazard, likelihood or menace of fire to a greater degree than reasonable for the conduct of the non-residential use on the premises, or which may unreasonably obstruct, delay, or hinder, or may unreasonably become the cause of an obstruction, a delay, a hazard or an unreasonable hindrance to the prevention, suppression or extinguishment of fire.

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

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

"Landowner or owner": The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

"Non-Residential Building or Structures Standards Inspector": The public officer delegated as such by the Town Board of Commissioners of the Town of North Wilkesboro. (Hereinafter referred to as "the Inspector".)

"Nuisance":

- 1) Any public nuisance known as common law or in equity jurisprudence, or as provided by the statutes of the State of North Carolina, or the ordinances of the Town of North Wilkesboro; or.
- 2) Any condition including an attractive nuisance which may prove detrimental to human health or safety whether in a building, on the premises of a building, or part of a building or upon an occupied lot; or.

- 3) Physical conditions dangerous to human life or detrimental to health of persons in, on or near the premises where the condition exists; or
- 4) Unsanitary conditions or conditions that are dangerous to public health, well-being or the general welfare; or
- 5) Fire hazards or other safety hazards.

“Occupant”: Any person who has charge, care or control of a non-residential building or structure or a part thereof, whether with or without the knowledge and consent of the owner, or any person, individually or jointly, entitled to possession regardless of whether the building or structure is actually occupied or not.

“Owner”: The holder of the title in fee simple and every mortgagee of record of a property.

“Parties in Interest”: All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

“Physical Valuation”: The estimated cost to replace a building in kind.

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

“Property”: All real property subject to land-use regulation by a local government. The term includes any improvements or structures customarily regarded as a part of real property.

“Public Sanitary Sewer”: Any sanitary sewer owned, operated and maintained by the County or the Town of North Wilkesboro and available for public use for the disposal of sewage.

“Rubbish”: Combustible and non-combustible waste materials, except garbage and ashes, including, but not limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

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

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

“Structure”: Anything constructed or erected which requires location on the ground. (Refer to the definition of "building" herein.)

“Supplied”: Paid for, furnished or provided by, or under control of, the owner or occupant.

“Vacant Industrial Warehouse”: Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

“Vacant Manufacturing Facility”: Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

5-77. - Office of Non-Residential Building or Structure Standards Inspector Created; Powers and Duties.

(a) For the purposes of administering and enforcing the provisions of this Article, the office of Non-Residential Building or Structures Standards Inspector, (herein called "Inspector"), is hereby created.

(b) The Inspector shall be appointed by the Town Board of Commissioners and shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provision of this Ordinance, including without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

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

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

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

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

5-78. - Duties and Responsibilities of the Owner.

It shall be the duty and responsibility of the owner to maintain all non-residential buildings or structures in accordance with all standards for non-residential buildings or structures fitness as stated in this Article.

5-79. - Duties and Responsibilities of the Occupant.

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

1) All parts of the premises under the control of the occupant shall be kept in a safe, clean and sanitary condition consistent with the non-residential use and the occupant shall refrain from performing any acts which would render any part of the building or premises unsafe or unsanitary or which would obstruct any adjacent owner/occupant from performing any duty required, or from maintaining his or her building or premises in a safe and sanitary condition.

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

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

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

5) Damage to public sidewalks and/or curb and gutter located in the public right-of-way shall be repaired or replaced at no expense to the Town when such damage is caused by vehicles making deliveries to the non-residential use under the control of the occupant.

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

5-80. - Relationship of Duties and Responsibilities to Occupancy.

The provisions of this Article that apply to the exterior or exterior components of a structure or building or to the premises shall be complied with whether the structure or building or premises is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured by their owners to prevent the entry of unauthorized persons or the formation of nuisance conditions such as infestation.

5-81. - Validity.

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article. The Town Board of Commissioners hereby declares that it would have passed this Ordinance and each section, subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses or phrases be declared invalid.

5-82. - Conflict with Other Provisions.

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

5-83. - Amendments.

The Town Board of Commissioners may, from time to time amend, supplement, or change the provisions and requirements of this Article. Any such amendment shall be by ordinance of the Town Board of Commissioners.

5-84. - Unlawful to own unsafe buildings and structures.

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

(B) A building or structure shall be found to be especially dangerous to life and held unsafe by the Inspector if the Inspector finds that any one (1) of the following conditions exists in such building or structure:

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

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

- (3) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Such damage by fire, wind, or other causes as to render the building unsafe.
- (5) Dilapidation, decay, unsanitary conditions, or disrepair which is dangerous to the health, safety or welfare of the occupants or other people of the jurisdiction.
- (6) Inadequate facilities for egress in case of fire or panic.
- (7) Defects significantly increasing the hazards of fire, accident, or other calamities.
- (8) Lack of adequate ventilation, light, heating, or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the jurisdiction.
- (9) Lack of proper electrical, heating, or plumbing facilities required by this Article which constitutes a health or a definite safety hazard.
- (10) For any building whose occupancy classification requires it, lack of connection to a potable water supply and/or to the public sanitary sewer or other approved sewage disposal system. For the purposes of this standard, a building is not connected to a potable water supply if the water supply has been "cut off" because of nonpayment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.
- (11) Any violation of the State Fire Prevention Code which constitutes a condition which is unsafe and especially dangerous to life.
- (12) Any abandoned non-residential building or structure which is found to be a health or safety hazard by the Inspector as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities.

(C) In addition to conditions 1-12 enumerated in (B) above, any one of which renders a building or structure unsafe, the Inspector shall determine that a non-residential building or structure is unsafe if he finds that a building or structure fails to fully comply with any five (5) or more of the following enumerated standards of building and premises fitness. Full compliance with a standard means that if any part of the stated standard is not complied with by a particular building and premises, then that building, and premises has failed to fully comply with the enumerated standard.

GENERAL

- (1) Buildings and premises shall be kept clear of accumulations of garbage, trash, or rubbish which create health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary way.
- (2) Flammable, combustible, explosive or other dangerous or hazardous materials shall be stored in a manner approved for such materials and consistent with the State Fire Prevention Code.
- (3) Buildings and premises shall be kept free of loose and insufficiently anchored overhanging objects which constitute a danger of falling on persons or property.

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

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

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

APPURTENANCES

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

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

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

(10) Gutters and down spouts shall be replaced or repaired as necessary and shall be appropriately located and securely installed so as not to cause a hazard to pedestrians, vehicular traffic, or property. Gutters and down spouts shall be maintained so as to obtain thorough drainage and to prevent the accumulation of standing water.

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

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

STRUCTURAL

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

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

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

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

(17) Where a wall of a building has become exposed as a result of demolition of an adjacent building said wall must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall unless such doors, windows, vents or other similar openings are to be maintained in accordance with the provisions of this Article. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked and weatherproofed, if necessary, to prevent deterioration of the wall.

PLUMBING, ELECTRICAL AND SUPPLIED FACILITIES

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

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

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

EGRESS

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

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

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

(24) In the Central Business District (CBD), all openings originally designed as windows shall be maintained as windows, unless specifically approved by the Inspector for enclosure. All broken and missing windows shall be replaced with glass, Plexiglass or similar material approved by the Inspector and the North Carolina Building Code.

(25) In the General Business (GB) District, all openings originally designed as windows shall be maintained as windows, unless specifically approved by the Inspector for enclosure. All broken and missing windows shall be replaced with glass or similar material based upon the Inspector's standards for closing structure and the North Carolina Building Code.

DRAINAGE

(26) All yards and premises shall be properly graded and maintained so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

5-85. - Buildings and Premises Not Declared Unsafe But Which Are Not in Compliance With All Standards.

In any case where the Inspector determines that a non-residential building or structure fails to fully comply with one or more but less than five of the standards of non-residential buildings or structures fitness set forth in 5-84. (C), such building or structure shall not be found to be unsafe and shall not be subject to the procedures and remedies as provided for in this Article for unsafe buildings and premises. Each such failure of non-compliance, however, shall constitute a violation of the terms of this Article and shall subject

the violator to the penalties and enforcement procedures of Section 5-99. In such case the Inspector shall not be required to notify the owner as provided for in Section 5-89.

5-86. - Investigation.

Whenever it appears to the Inspector that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the Town Board of Commissioners, the Inspector shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

5-87. - Complaint and Notice of Hearing.

If the preliminary investigation discloses evidence of a violation of the minimum standards, the Inspector shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the Inspector (or his or her designated agent) at a place within the Town, scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

5-88. - Order to take corrective action; contents; issuance.

If, after notice and hearing, the Inspector determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards as established by the Town Board of Commissioners, the Inspector shall state in writing the findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(A) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the Town Board of Commissioners or to vacate and close the nonresidential building or structure for any use.

(B) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Town Board of Commissioners determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this ordinance.

(C) An order **may not** require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

5-89. - Service of Complaints and Orders of Inspector.

Complaints or orders issued by the Inspector pursuant to this ordinance shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. 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 refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, and the Inspector makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the Town at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

5-90. - Appeal of Order of Inspector; finality if not appealed.

Any owner who has received an order under Section 5-88 may appeal from the order to the Town Board of Adjustment by giving notice of appeal in writing to the Inspector and to the Town Clerk within ten (10) days following issuance of the order. In the absence of an appeal to the Board of Adjustment within the prescribed time, the order of the Inspector shall be final. The Board of Adjustment shall hear appeals within a reasonable time after receipt of the notice of appeal and it may modify and affirm or revoke the order. Any person aggrieved by a decision or order of the Inspector shall have the remedies provided in G.S. 160D-1208.

5-91. - Failure to comply with Order of Inspector.

(A) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the Town Board of Commissioners may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Inspector may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The Inspector may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a misdemeanor.

(B) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the Town Board of Commissioners may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the Town Board of Commissioners. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Inspector may cause the building or structure to be removed or demolished.

5-92. - Remedies; lien for cost of demolition and removal.

(A) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the Inspector shall be a lien against the real property upon which the cost was incurred,

which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(B) The amount of the costs is also a lien on any other real property of the owner located within the Town limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(C) If the nonresidential building or structure is removed or demolished by the Inspector, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the Town Board of Commissioners to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

5-93. - Failure of occupant to comply with order to vacate.

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the Inspector may file a civil action in the name of the Town to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the Town Board of Commissioners pursuant to Section 5-91 of this Article to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure 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 under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing body has ordered the Inspector to proceed to exercise his or her duties under Section 5-91 of this Article to vacate and close or remove and demolish the nonresidential building or structure.

5-94. - Action by Town Board of Commissioners upon abandonment of intent to repair.

(A) If the Town Board of Commissioners has adopted an ordinance or the Inspector has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of **two years** pursuant to the ordinance or order, the Town Board of Commissioners may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the municipality in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Town Board of Commissioners may, after the expiration of the **two year** period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the

ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or

(2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

(B) In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of **five years** before the Town Board of Commissioners may take action under this subsection. The ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Inspector shall effectuate the purpose of the ordinance.

5-95. - Demolition of Non-Residential Buildings by Owner.

Where a non-residential building or structure is under the jurisdiction of this Article, the building may be demolished by the owner provided that the following requirements are met:

(1) The owner shall obtain a demolition permit from the Building Inspections Department.

(2) All sewer, gas, water and similar taps or connections shall be properly closed and disconnected.

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

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

(5) Where walls of adjacent buildings become exposed as a result of the demolition, said walls must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall, unless such doors, windows, vents, or other similar openings are to be maintained in accordance with the provisions of this Article. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked and weatherproofed, if necessary, to prevent deterioration of the wall.

5-96. - Inspections.

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

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

5-97. - Defects in buildings to be corrected.

When the Inspector finds any defects in a non-residential building, or finds that a building has not been constructed in accordance with applicable State and Town laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his or her duty to notify the owner or occupant of the building of its defects, hazardous conditions or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he owns. Failure to do so shall constitute a violation of this Article. Each day any violation of this Article shall continue shall constitute a separate offense.

5-98. - Violations.

In addition to the conditions, acts or failure to act that constitute violations specified in this Article, it shall be unlawful for the owner of any building or structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. It shall be unlawful for the owner of any building, with respect to which an order has been issued pursuant to Section 5-88., to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition.

5-99. - Procedure Is Alternative, Civil Penalties

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, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinance or laws.

In addition to the remedies provided for herein, an act constituting a violation of the provisions of this Article or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$200.00, which includes administrative fees. Each day any single violation continues shall be a separate violation. Unless expressly stated otherwise in an Article or appendix, a violation of this Article shall not constitute a misdemeanor pursuant to N.C.G.S. 14-4. If the offender fails to correct this violation by the prescribed deadline after being notified of said violation, the penalty may be recovered in a civil action in the nature of a debt. In the event a civil action is filed by the Town in the nature of a debt, for an injunction, order of abatement, enforcement of a lien right, or other equitable remedy, or any combination thereof, the Town also shall be entitled to recover its court costs and attorney fees.”

5-100. – Conflict with other ordinances

That all ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.