

CITY OF HIGH POINT AGENDA ITEM



Title: Resolution to Adopt and Implement the Minimum Housing Ordinance

From: JoAnne Carlyle, City Attorney

Meeting Date: Monday, May 1, 2017

Public Hearing: Yes

Advertising Date: April 10 & 17, 2017

Advertised By: High Point Enterprise

Attachments: Resolution & Minimum Housing Ordinance

PURPOSE:

Council is requested to adopt a Resolution to adopt and implement the High Point Minimum Housing Ordinance.

BACKGROUND:

BUDGET IMPACT:

There is no budget impact.

RECOMMENDATION / ACTION REQUESTED:

The City Attorney recommends adoption of a Resolution to adopt and implement the High Point Minimum Housing Ordinance.

A RESOLUTION TO ADOPT AND IMPLEMENT THE
HIGH POINT MINIMUM HOUSING ORDINANCE

WHEREAS, the High Point City Council desires to amend and and update the City's Minimum Housing Ordinance, and in doing so the amended ordinance will better serve the community with housing issues; and

WHEREAS, N.C.G.S. 160A-364 authorizes municipalities to adopt ordinances enforcing provisions for minimum standards of habitability for dwellings; and

WHEREAS, N.C.G.S. 160A-75 requires an affirmative vote of all members of the council not excused from voting on the question at issue shall be required to adopt an ordinance, and which must have a vote that is greater than two-thirds a majority of council for the ordinance to be effective upon the date in which it is introduced to the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE HIGH POINT CITY COUNCIL in accordance with N.C.G.S. 160A-364 and 160A-75, Council hereby adopt and implement the Minimum Housing Ordinance to be effective upon this 1st day of May, 2017.

Mayor William S. Bencini, Jr.

ATTESTED TO:

Lisa Vierling, MMC
City Clerk

ARTICLE E - Minimum Housing Code

Sec. 9-2-91 - How Article known and cited.

This Article shall be known as the "Minimum Housing Code," may be cited as such and will be referred to herein as "this Article."

Sec. 9-2-92 – Findings; Intent.

Pursuant to G.S. 160A-441 and 160A-443, the City Council hereby finds and declares the existence and occupation of dwellings within the City limits that are unfit for human habitation and inimical to the welfare, and dangerous and injurious to the health, safety and morals of, the residents of the City, and that a public necessity exists for repairing, closing, or demolition of such dwellings, in the manner herein provided, as provided by North Carolina State General Statutes. The City finds that there exists in the City, dwellings that are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the City.

Sec. 9-2-93 - Purpose.

The purpose of this Article is to arrest, remedy, and prevent and eliminate the decay and deterioration of dwellings for the protection of the life, health, welfare, safety and property of the general public and the owners and occupants of dwellings.

Sec. 9-2-94 - Jurisdiction.

The provisions of this Article are applicable to all dwellings within the City limits and its extraterritorial jurisdiction, as now or hereafter fixed.

Sec. 9-2-95 - Definitions.

Certain abbreviations, terms, phrases, words, and their derivatives shall be construed as specified in this Article. Terms, words, phrases, and their derivatives used, but not specifically defined in this Article, shall have the meaning specifically defined in the North Carolina State Building Code, and any terms, words, phrases, and their derivatives used, but not specifically defined in either this Article or the North Carolina State Building Code, shall have the meaning specifically defined in the Development Ordinance.

- (a) *Abandon* shall mean an owner vacating or closing a dwelling for more than one (1) year and failing to substantially repair the dwelling, enter into a contract for repairing the dwelling, or maintain the premises or dwelling in a secure manner in accordance with this Article.
- (b) *Accessory structure* shall mean any building or structure used or intended to be used in conjunction with a dwelling, whether attached to or detached from a dwelling, including, but not limited to, sheds, storage buildings, outbuildings, carports and garages, and any fence.

(c) *Area*:

1. As applied to the dimensions of a building, shall mean the maximum horizontal prospected area of the building at grade.
2. As applied to the dimensions of a room, shall mean the total square footage of floor area between finished walls.

- (d) *Basement* shall mean a story with 50 percent or more of its cubical contents below finished yard grade.
- (e) *Building* shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "building" shall be construed as if followed by the words "or part thereof."
- (f) *Ceiling height* shall be the clear vertical distance from the finished floor to the finished ceiling.
- (g) *Demolish* shall mean the demolition and removal of the entire building leaving the premises free and clear of any debris and without holes or pockets which may retain water.
- (h) *Dwelling* shall mean any building, structure, manufactured home or mobile home, or portion thereof, which is used, or designed or intended to be used for human habitation, including living, sleeping, cooking, eating or any combination thereof, and shall include accessory structures. A dwelling does not include manufactured homes or mobile homes which are used solely for a seasonal vacation purposes.
- (i) *Exit* shall mean a clear and unobstructed way of departure from the interior of a building to the exterior at street or grade level.
- (j) *Extermination* shall mean the control and elimination of insects, rodents, or other pests eliminating their harborage places, by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the inspector.
- (k) *Fire damage* shall mean an action caused by a fire other than smoke damage.
- (l) *Garbage* shall mean the animal and vegetable refuse resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incidental thereto.
- (m) *Habitable room* shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, communicating corridors, closets or storage spaces.
- (n) *Infestation* shall mean the presence, within or around a dwelling, of any harmful insects, rodents or other pests.
- (o) *Inspector* shall mean the Director of Community Development and Housing or the inspector duly appointed by the Director of Community Development and Housing to

enforce the provisions of this Article. The inspector is the public officer as defined in G.S. 160A-442.

- (p) *Occupant* shall mean any person living, sleeping, cooking or eating in, or having actual possession of, a dwelling or rooming unit.
- (q) *Owner* means the holder of the title in fee simple and every mortgagee of record.
- (r) *Parties in interest* shall mean all individuals, associations, partnerships, corporations, and others who have monetary interest in a dwelling and any who are in possession or control thereof either as agent of the owner, as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.
- (s) *Pier* shall mean a masonry support of at least eight (8) inches by twelve (12) inches of solid masonry extending from the ground and footing to and supporting the building or portion thereof. Pier sizes and spacing shall conform to the specifications of the North Carolina State Residential Building Code.
- (t) *Plumbing* shall mean the water supply system, the sanitary and storm drainage system, the vent system, the fixtures and traps and shall include their respective connections, devices, appliances and appurtenances within the property lines of the premises.
- (u) *Premises* shall mean a lot, plot or parcel of land, including the dwelling, building, or structure thereon or any part thereof, except land occupied by streets, alleys or public thoroughfares.
- (v) *Public authority* shall mean any housing authority or any officer who is in charge of any department or branch of the government of the City, county, or State relating to health, fire, building regulations, or other activities concerning dwellings in the City.
- (w) *Rooming house* shall mean any dwelling, or part thereof, in which the owner or occupant shall rent or offer for rent accommodation for living and sleeping purposes to three (3) or more persons, none of whom is husband, wife, son, daughter, mother, father, sister or brother (or in a step or in-law kinship, with respect to the six last-named relationships) of the owner or occupant renting or offering for rent the dwelling, or part thereof.
- (x) *Rooming unit* shall mean any room for let within a rooming house
- (y) *Sagging* shall mean the amount of deflection occurring over a span between two (2) supports. A deflection of L/240 and greater shall be deemed as a structural defect.
- (z) *Seriously* shall mean that the amount of damage occurring shall be sufficient to decrease the designed strength of the structural member.
- (aa) *Tenant* shall mean any person who alone or jointly or severally with others occupies a dwelling under a lease or holds a legal tenancy in a building.

Sec. 9-2-96 - Public Officer.

Pursuant to G.S. 160A-443, the Director of Community Development and Housing is hereby designated as the public officer to exercise, by and through his duly appointed inspector, the powers prescribed by this Article.

Sec. 9-2-97 - Consulting agencies.

The inspector shall have authority to request advice and assistance of a High Point Planning and Zoning Commission, Housing Authority of High Point, High Point Fire and Police Department, Guilford County Health Department, Davidson County Health Department, Forsyth County Health Department, Randolph County Health Department, or any other public authority the inspector may deem appropriate, in exercising the powers of this Article.

Sec. 9-2-98 - Powers.

The inspector shall determine that dwellings are unfit for human habitation if the inspector finds a violation of the standards and requirements of fitness set forth in this Article.

Sec. 9-2-99 - Administrative liability.

Except as may otherwise be provided by North Carolina statute, local law or ordinance, no officer, inspector or employee of the City charged with the enforcement of this Article shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Article. No person who institutes or assists in the prosecution of a criminal proceeding under this Article shall be liable to damages hereunder unless he acted with malice and without reasonable grounds for believing that the person accused was guilty of any unlawful act or omission.

Sec 9-2-100 Minimum Standards

The following shall constitute the minimum standards and requirements for dwellings and shall be pertinent in determining fitness for human habitation.

(a) *Minimum services and facilities:*

1. The premises must be used and maintained individually without trespass upon adjoining premises.
2. Utilities and other facilities shall be independent for each premises. An exception may be permitted for common gas and water service to two (2) adjacent premises where:
 - a. The location of the common service line does not adversely affect the future use of the premises, and
 - b. The common service line is protected by a permanent easement agreement to assure continued maintenance, and
 - c. Individual shut-off valves are provided so that independent service is assured, and
 - d. Ownership of the common portion of the service line remains with the serving utility.
3. Each dwelling shall contain provisions for each of the following:
 - a. A continuing supply of safe and portable water.
 - b. Sanitary facilities and a safe method of sewage disposal.

- c. Heating facilities adequate for healthful and comfortable living conditions.
- d. Domestic hot water.
- e. Electricity for lighting and for equipment used in the dwelling.

(b) *Access:*

1. *Access to the premises.*

- a. The premises shall be provided with vehicular access to the premises by an abutting public or private street. Private streets shall be protected by a permanent easement for ingress and egress.
- b. The width and construction of the required street and provisions for its continued maintenance shall provide safe and suitable vehicular access to and from the premises at all times.

2. *Access to the rear yard.*

- a. Each dwelling shall be provided with a means of access to the rear yard, for safety.
- b. For a row dwelling, the access shall be by means of an alley, easement, open passage through the dwelling, or other acceptable means.

(c) *Premises maintenance:*

1. *Building and structure.*

- a. Exterior surfaces, not inherently resistant to deterioration, shall be treated with a protective coating, such as paint or other suitable preservative, with sufficient frequency to prevent deterioration.
- b. Floors, walls, ceilings, and fixtures shall be maintained in a clean and sanitary condition.

2. *Open areas.* Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant water.

3. *Infestation.* The premises and all dwellings shall be maintained free of infestation.

4. *Garbage and refuse.* There shall be adequate sanitary facilities and methods provided and used for the storage, handling, and disposal of garbage and refuse.

(d) *Minimum standards:*

1. *General.* Each dwelling shall have at least two (2) habitable rooms of which one (1) shall be a bedroom. In addition, a bathroom shall be provided within. Dwellings designed as efficiency apartments may have one (1) habitable room, with a bathroom if the minimum space requirement is met.

2. *Minimum standards objective.*

- a. Each dwelling shall be provided with space necessary to assure suitable living, sleeping, cooking, and dining accommodations, adequate storage, laundry and sanitary facilities and laundry when required.

- b. The area occupied by a stair or closets shall not be included in the determination of required room sizes.
- 3. *Minimum space requirements.*
 - a. Living or principal room shall not be less than 100 square feet.
 - b. The first bedroom not less than 100 square feet.
 - c. All other bedrooms not less than 70 square feet.
 - d. Kitchen and dining room combination shall be not less than 100 square feet.
 - e. Efficiency apartment shall not be less than 200 square feet.
- 4. *Minimum space requirements for occupancy.*
 - a. At least 150 square feet of habitable floor space for the first occupant.
 - b. At least 100 square feet for each of the next three (3) occupants.
 - c. At least 50 square feet for each additional occupant.

Note: Children under four (4) years of age shall not be counted.

(e) *Habitable rooms:*

- 1. Every habitable room shall be not less than seven (7) feet wide in any part and shall contain not less than 70 square feet of net floor area.
- 2. Habitable rooms shall have a clear height of not less than seven (7) feet six (6) inches for at least 50 percent of the net floor area. Except a kitchen can have a minimum height of seven (7) feet.
- 3. That portion of any room where the ceiling height is less than five (5) feet shall not be considered as required floor area.
- 4. A basement may be used as a habitable room if it meets the following criteria:
 - a. Finished rooms in basements or below grade intended for year round occupancy are considered habitable rooms and shall comply with the same standards as rooms above grade.
 - b. The floor and walls are impervious to leakage of underground and surface run-off water and are insulated against dampness and condensation.
 - c. The total window area in each room is equal to at least the window area sizes prescribed herein for habitable rooms (see subsection (g), light and ventilation requirements).
 - d. The total of openable window area in each room is equal to at least the area prescribed herein for habitable rooms (see subsection (e), light and ventilation requirements), except where there is supplied some other device affording adequate ventilation and approved by the inspector. Habitable rooms used primarily for the purpose of sleeping that do not meet the requirements for openable window and which have adequate approved ventilation shall have two (2) exit doors located as remotely as possible from each other.

5. Toilet and bathing facilities shall be enclosed.
6. Access shall be provided to required toilet rooms without going outside building or habitable space.
7. Interior access shall be provided to all rooms within a dwelling without passing through a public space. Rooming houses are exempt from this requirement.
8. Doors shall be provided at all doorways leading to bedrooms, toilet rooms, and bathrooms and all rooms adjoining a public space.
9. Exterior doors shall have entrance locks.
10. All exterior doors shall be weathertight.

(f) *Rooming house requirements:*

1. Lavatory facilities shall be in good working condition and consist of one (1) flush water closet, one (1) washbasin and one (1) bathtub or shower for every six (6) persons residing in the rooming house.
2. Access shall be provided from any rooming unit to lavatory facilities without entering another dwelling, rooming unit or non-conditioned area.
3. A washbasin and bathtub or shower shall be provided and shall be properly connected and supplied with hot and cold running water.
4. A lavatory not located in the basement shall be provided.
5. Walls, floors and ceilings shall be maintained in a sanitary condition.
6. All garbage shall be promptly disposed of in a sanitary condition.
7. In rooming houses with fossil fuel heating systems exceeding 250,000 B.T.U., the furnace room shall be enclosed with material having at least a one-hour fire protection rating. A smoke detector shall be installed in every furnace room.
8. A smoke detector shall be installed in all public hallways within fifteen (15) feet of each rooming unit. Primary source of power for detectors shall be taken from the dwelling electrical current.

(g) *Light and ventilation requirements:*

1. Natural lighting, when required, shall be provided by means of windows, glazed doors, skylights, transparent or translucent panels, or by any combination thereof. The area of glazing material shall be sufficient to transmit an amount of light equal to that transmitted by the required area of clear glass.
2. For the purpose of providing adequate light, each habitable room shall have a total glazed area of not less than six (6) square feet.
3. Operable screened window must be three (3) percent of the total floor area or 50 percent of the existing window area, whichever is greater.
4. All outside windows and doors opening to the outside used for ventilation purposes shall be adequately screened. All dwellings where approved permanent conditioned air is provided shall be excluded from this requirement.

- a. Screens shall not be permanently fixed to sash, frames or jamb.
- b. All screen frames shall be removable for repair.
5. All moveable sash windows shall be lockable.
6. An alcove opening off a habitable room may be included as part of that room in determining the window area required provided that a portion of the common wall between the habitable room and the alcove is open and unobstructed.
7. For the purpose of determining light and ventilation requirements, any room may be counted with an adjoining room when one-half ($\frac{1}{2}$) of the area of the common wall is open and unobstructed.
8. Windows shall be weathertight; there shall be no broken glass.
9. A toilet room which contains more than one (1) flush unit shall have an operable window unless served by an approved ventilation system.
10. Every public hall and inside stairway in every dwelling shall be adequately lighted at all times to permit safe passage.

(h) *Exit requirements:*

1. Each dwelling shall have two (2) exits located as remotely as possible.
2. At least one (1) exit shall be side hinged.
3. One (1) exit door shall be at least 30 inches wide and six (6) feet, six (6) inches high.
4. All exit doors shall be easily operable.
5. There shall be a safe, continuous, and unobstructed exit from interior of building to the exterior at street or grade level.
6. Those buildings meeting the requirements of the North Carolina Building Code exempting two (2) exits shall be exempted from the requirements of this Section.

(i) *Plumbing requirements:*

1. All new plumbing shall be installed in accordance with the North Carolina State Building Code. Any repair or replacement of existing plumbing shall be done in accordance with said plumbing code when, in the opinion of the chief plumbing inspector, it is practical or otherwise vital to the interest of health and sanitation.
2. All plumbing shall be connected to the City water and sanitary sewer system where necessary as determined by the director of public services department or the department of health.
3. All fixtures shall be operable.
4. There shall be no broken water closet bowls.
5. Water closet shall not be loose or leaking.
6. No leaks shall be in shower stall floor.
7. There shall be running water installed inside each dwelling.

8. There shall be adequate separate facilities for furnishing running a hot and cold water to each tub or shower, lavatory, kitchen sink, and clothes washer connection when required.
9. There shall be separate toilet facilities for each dwelling.
10. All water piping shall be protected from freezing by proper insulation.
11. Sewer and water lines shall be properly supported and no lines shall be broken or leaking.
12. Every water closet compartment floor surface and bathroom floor surface shall be so constructed and maintained as to be reasonably impervious to water and so maintained to permit such floor to be readily kept in a clean and sanitary condition.

(j) *Heating requirements:*

1. All new heating, ventilation and air conditioning shall be installed in accordance with the North Carolina State Building Code, relating to H.V.A.C. Any repair or replacement of existing H.V.A.C. shall be done in accordance with said H.V.A.C. code when, in the opinion of the chief H.V.A.C inspector it is practical or otherwise vital to the interest of dangerous and hazardous conditions.
2. Every building and every dwelling shall be weatherproof and capable of being adequately heated. The heating equipment in every dwelling shall be maintained in a safe workable condition.
3. A heating system shall be provided by the owner. In an occupied building the heating system shall be properly installed and maintained in a safe working condition and capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments to a temperature of 68 degrees Fahrenheit.

For unoccupied buildings no certificate of compliance shall be issued until issuance of a permit for a heating system, and said system has been inspected and found to be properly installed.

4. Hand-fired equipment shall have a check damper and turn damper installed in the smoke pipe unless it is included as an integral part of the heating unit. The turn damper shall have not less than 20 percent free opening when in closed position.
5. All applicable heating equipment installed on the premises shall be listed by a National Testing Laboratory accepted by the State of North Carolina labeled and installed in accordance with the provisions of the North Carolina State Building Code.
6. Liquid fuel stored on the premises shall be stored in accordance with the provisions of the North Carolina State Building Code.
7. There shall be no loose bricks in chimneys.
8. There shall be no holes in flues.
9. There shall be no hanging masonry chimneys.
10. Thimbles shall be grouted in tightly.

11. Thimbles shall not be broken.
12. Thimbles shall be high enough for stovepipe to rise one-quarter ($\frac{1}{4}$) inch per foot minimum.
13. Hearth, where required, shall be at least 16 inches deep (measure to face material) and six (6) inches beyond each side of fireplace opening.
14. If fireplace opening is closed, it shall be a masonry closure.
15. Stove shall be within six (6) feet of thimble serving it.
16. No combustible material shall be within 18 inches of stovepipe.
17. Solid fuel burning stovepipe shall be not less than 24 gauge. Joints shall be fastened with three (3) screws.
18. No stovepipe shall be through combustible walls.
19. In dwellings with central heat, fossil fuel heating system exceeding 250,000 B.T.U., more than two (2) adjoining heating systems or boiler heating system exceeding 10 horsepower, the furnace room shall be enclosed with material having a one-hour firewall.
20. Solid fuel appliances require an approved-type mat, liquid fuel appliances shall be installed per manufacturer's specification.
21. Liquid fuel storage tanks shall not be more than nine (9) feet above the surrounding grade.

(k) *Electrical requirements:*

1. There shall be at least two (2) duplex receptacles installed in each habitable room.
2. There shall be a lighting fixture controlled at the fixture or by wall switch installed in each habitable room, bathroom, laundry and furnace rooms. A third receptacle outlet controlled by a wall switch may be substituted for a fixture.
3. There shall be a wall switch controlled lighting fixture installed at each outside entrance, and in stairways controlled by three-way switches.
4. If the dwelling is wired for an electrical range and also an electric water heater or an electric clothes dryer, the electric service shall be a minimum of 100 amps.
5. Fuses shall be properly sized to match the wire sizes to prevent overloading and damaging the wire. Type "S" fuses, (fuse-stats), shall be used.
6. Stationary or fixed appliances shall be provided a duplex receptacle.
7. Extension cords used for lamps and accessories shall be limited to six (6) feet in length.
8. All switches, fixtures, and receptacles shall be in safe operable condition.
9. All new wiring to be installed shall be in accordance with the N.C. Electrical Code that is in effect at the time the work is done.

10. Within 15 feet of every bedroom there shall be provided an approved listed smoke detector installed as per the manufacture's recommendation and listing.
11. Any repair or replacement of existing wiring shall be done in accordance with said electrical code when, in the opinion of the electrical inspector, it is reasonably practical or otherwise vital to the health and safety in order to eliminate a dangerous and hazardous condition.
12. Where electric heat is installed in an existing dwelling, the requirements of the North Carolina State Electrical Code shall be met, including insulation minimums in flooring, walls, and ceilings.

(I) *Structural requirements:*

1. *Foundation.*

- a. No footing shall be exposed.
- b. Beneath the building, there shall be firm ground, reasonably dry ground, no soggy ground, no water standing, no water running under building unless designed otherwise.
- c. There shall be sound footings, with adequate bearing.
- d. There shall be sound piers with no loose mortar.
- e. There shall be no piers in which a plumb line from top center falls outside the middle one-third (1/3) of the pier base.
- f. There shall be no isolated solid masonry piers exceeding in height 10 times the least dimension of the pier.
- g. There shall be no wood stiff-knee piers unless pressure treated or equivalent and bearing on solid masonry raised one (1) concrete block above ground level.
- h. The space between the ground and the first floor of every dwelling which is enclosed shall be underpinned with masonry to substantially weather-proof and rodent-proof with adequate access opening of 18 by 24 inches with a door. Curtain walls shall have foundation vents installed at a minimum on one (1) square foot for every 250 square feet of crawl space when signs of moisture damage exist.

2. *Floors.*

- a. There shall be no seriously rotted, or termite damaged joists and sills.
- b. There shall be no fire damaged charred wood.
- c. There shall be no broken, overloaded, or sagging girders.
- d. There shall be no broken, overloaded, or sagging sills.
- e. Sills shall be reasonably level.
- f. Sills shall be properly and sufficiently supported.
- g. There shall be no broken joists.

- h. Any floor joists which show signs of weakness or disrepair shall be properly replaced with lumber comparable to at least the same nominal dimension and grade as the original joist.
 - i. Flooring shall be weathertight without holes or excessive cracks which permit air penetration into rooms.
 - j. Flooring shall be reasonably smooth, and not rotten, fire damaged or worn through.
 - k. There shall be no loose flooring or floor covering.
 - l. The floor shall be reasonably level.
 - m. When any new flooring is to be installed there shall be a minimum of five-eighths (5/8) inch plywood underlayment (or equivalent) or three-quarters (3/4) inch tongue and groove board flooring over the floor joists.
3. *Walls, exterior.*
- a. There shall be no wall in which plumb line from top center of studs falls outside the bottom plate at any point along wall unless by design.
 - b. No studs shall be seriously rotted or termite damaged.
 - c. There shall be no fire damaged charred wood.
 - d. There shall be no broken structural members.
 - e. All siding shall be weathertight, with no holes or excessive cracks, or rotted boards.
 - f. There shall be no loose siding.
4. *Walls, interior.*
- a. Interior wall finish shall be free of holes.
 - b. There shall be no wall in which a plumb line from top center of studs falls outside of bottom plate unless by design.
 - c. There shall be no loose plaster, loose boards, or other loose wall materials susceptible to falling.
 - d. There shall be no cardboard, newspaper, or similar highly combustible wall finish in a dwelling.
 - e. There shall be no seriously rotted, termite damaged, or broken studs.
 - f. There shall be no fire damaged charred wood.
5. *Ceilings.*
- a. There shall be no seriously rotted, broken, sagging, or fire damaged joists or improperly supported ends.
 - b. Any ceiling joists which show signs of disrepair shall be properly replaced with lumber comparable to at least the same nominal dimension and grade as the original joist.

- c. There shall be no holes.
- d. There shall be no loose plaster, boards, sheet rock, or other ceiling finish susceptible to falling.
- e. There shall be no cardboard, newspaper, or other similar highly combustible finishes in a dwelling.
- f. There shall be an attic access provided with a minimum size of 14 x 24 inches.

6. *Roofs.*

- a. There shall be no seriously rotted, broken rafters or improperly supported ends.
- b. There shall be no fire damaged charred wood.
- c. Rafters shall be properly braced and tied. Maximum spacing of collar beams shall be five (5) feet on center, or other approved methods of bracing roof may be used.
- d. Attics ventilation is required only when signs of heat or moisture damage exist. The net opening shall be at least 1/150 of the attic floor space. Obstructions caused by screens and louvers must be subtracted to obtain the net area. The net opening must be cut to 1/300 if 50 percent of the ventilation is in the upper portion of the attic. Alternate methods as specified in Volume 1b, Section 25, may be used.
- e. There shall be no loose, or seriously rotted sheathing.
- f. There shall be no fire damaged charred sheathing.
- g. There shall be no loose roof covering, nor holes, nor leaks.
- h. There shall be a minimum of Class "C" roof covering; except in the number one Fire District a Class "A" or "B" covering is required.
- i. There shall be proper metal flashing at walls or chimney.
- j. Not more than two (2) roof coverings may be installed.

7. *Porches, exterior stairs and steps.*

- a. Floor, ceiling, and roof shall be equal to requirements set forth above, except sills, joists, and floors need not be level if providing drainage of floors; floors need not be weather-tight; ceiling height may be seven (7) feet; and attic shall be vented.
- b. Posts, railings and guards shall not be seriously rotted or termite damaged and shall be sufficiently anchored.
- c. Every porch, terrace or entrance platform located at least 36 inches above adjacent finished grade shall be equipped with railings not less than 30 inches high. Pickets shall be installed on railings and hand railings with no more than a six-inch spacing. Handrails continuous on all open sides of stairs exceeding 36 inches in height leading to a platform, porch or terrace, shall be installed at least 30 inches high.

- d. Enclosed stairs exceeding a rise of 36 inches shall have at least a single handrail.
8. *Interior stairs and steps.*
- a. Stairs and steps shall be free of holes, grooves and cracks large enough to constitute an accidental hazard.
 - b. Interior steps and stairs more than 36 inches of rise shall have rails not less than 30 inches measured vertically from the nose of the treads to top of the rail.
 - c. Every rail shall be firmly fastened and maintained in good condition.
 - d. No flight of stairs shall be settled more than one (1) inch out of its intended position or pulled away from supporting or adjacent buildings.
 - e. There shall be no rotting, sagging, or deteriorating supports.
 - f. Every stair riser shall be reasonably uniform and shall not exceed eight and one-quarter ($8\frac{1}{4}$) inches in height; treads shall be at least one and one-eighth ($1\frac{1}{8}$) inch thick and shall be securely fastened in position. Every wood stair riser in excess of 36 inches in width shall have an additional "stringer," each "stringer" to be spaced not more than 30 inches apart. The minimum depth of treads shall be $10\frac{1}{4}$ inches including the "nosing."
9. *Accessory structures.*
- a. Accessory structures shall either be maintained in a safe and substantial condition or demolished and removed.
 - b. Exterior surfaces, not inherently resistant to deterioration, shall be treated with protective coating, such as paint or other suitable preservative, and with sufficient frequency to prevent deterioration.
 - c. Any electrical, plumbing, heating, or other utilities furnished to an accessory structure shall be installed in accordance with applicable code provisions; and maintained in a safe condition.
 - d. Every accessory structure shall be properly maintained in a clean and sanitary condition and free from physical hazards and other matter detrimental to the public health.

Sec. 9-2-101 - Occupants

- (a) *Occupant's responsibilities.* Every occupant of a dwelling shall:
- 1. Keep the part of a dwelling which he occupies and controls in a clean and sanitary condition.
 - 2. Keep all required plumbing and other fixtures in a clean and sanitary condition, and exercise reasonable care in the use and operation thereof.
 - 3. Be responsible for the extermination of any insects, rodents or other pests whenever said dwelling is the only dwelling or portion thereof, infested and the owner has provided a reasonably insect-proof and adequately rodent-proof dwelling.

4. Dispose of all garbage and other refuse in an approved garbage receptacle; when approved garbage receptacles are not provided by the landlord, it shall be the responsibility of the occupant to provide adequate approved garbage receptacles.
 5. Not place on the premises any material which causes a fire hazard or otherwise endangers the health or safety of any occupants of such dwelling; not place in storage or on the premises any furniture, auto parts, junk equipment or material which harbors insects, rodents or other pests.
 6. Not occupy any dwelling unless running water is provided to the required plumbing fixtures.
 7. Not place within any building for use therein any oil, kerosene or gas fired portable heater to be used as the primary source for heating or cooking.
 8. Not place on the premises for the use thereon any heating or cooking unit which constitutes a fire hazard. If the occupant provides heating or cooking equipment, the occupant shall be responsible for its proper installation and maintenance.
 9. Not cause such damage to the dwelling let to him as to make the same unfit for human habitation.
 10. No occupant of a rooming house shall heat or cook food or permit the heating or cooking of food within his rooming unit.
- (b) *Owner's responsibilities.* Any owner remains liable for violations of duties imposed upon him by this Article even though:
1. An obligation is also imposed on the occupant; or
 2. The owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this Article.
- (c) *Enforcement against occupant.* Upon discovering a violation of this Section, the inspector shall have the power to order the correction of any such violation within forty eight (48) hours from date of notice thereof; in the event that the occupant fails to make such corrections, then the inspector shall set a hearing pursuant to the procedures of Section 9-11-105, and thereafter may again order the correction of any such violation within forty eight (48) hours from date of service of the order upon the occupant or the inspector may order the dwelling to be vacated within a reasonable time. The inspector may pursue any other civil or criminal action as the inspector deems reasonably necessary in order to effectuate the purposes of this Article.
- (d) *Safety of occupants.* In order to protect the health and safety of occupants of a dwelling, the owner shall, within forty-eight (48) hours after being notified in writing by the occupant or the City, repair and replace any:
1. Broken, burst, frozen or inoperable plumbing pipe or fixtures;
 2. Exposed or unsafe wiring;
 3. Unsafe and/or dangerous cooking or heating equipment provided by the owner; and
 4. Fuel storage tanks and/or supply lines provided by the owner which are leaking, improperly supported or dangerous.

Sec. 9-2-102 – Powers and duties of inspector.

- (a) The inspector shall have such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Article, including (without limiting the generality of the foregoing), the following powers in addition to others herein granted:
 - 1. To investigate dwelling conditions in the City to determine which dwellings have been erected, constructed, altered, repaired, converted, maintained, or used in violation of this Article.
 - 2. To administer oaths, affirmations, and to examine witnesses and receive evidence.
 - 3. To enter upon and within premises, dwellings, and buildings for the purpose of making examinations and investigations, provided that such entries shall be made in such lawful manner as to cause the least possible inconvenience to the person in possession.
 - 4. To appoint and fix the duties of such officers, agents and employees as the inspector deems necessary to carry out the purposes of this Article.
 - 5. To delegate any of his functions and powers under this Article to such officers and agents as the inspector may designate.
 - 6. To file civil action in the nature of summary ejectment to effectuate an order to vacate a dwelling as provided in G.S. 160A-443(7).
 - 7. To file copies of ordinances, orders and other notices with the Office of the Register of Deeds, the Clerk of Superior Court and other governmental agencies.
- (b) It shall be the duty of the inspector to diligently examine dwellings located in the City for the purpose of locating and taking action with respect to such dwellings that appear to be unfit for human habitation in violation of this Article. The inspector shall conduct all inspections and procedures as provided by this Article.

Sec. 9-2-103 - Emergency cases.

- (a) In emergency cases where it reasonably appears there is immediate danger to the life or safety of any person or to the safety of other property, unless a dwelling unfit for human habitation is immediately repaired or demolished, the inspector shall order the dwelling vacated and cause the immediate repair or demolition of the dwelling and the cost of such repair or demolition shall be recovered and collected as is provided in Section 9-11-105 hereof.
- (b) In emergency cases as cited above, the inspector shall have the power immediately to cause to be posted on the main entrance of any dwelling a placard with words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."
- (c) The employees of the City fire and police departments shall report to the inspector all dwellings which are, may be, or are suspected of being unfit for human habitation.

Sec. 9-2-104 - Dwellings unfit for human habitation.

- (a) The inspector shall determine that a dwelling is unfit for human habitation if the inspector finds that any of the following conditions exist in the dwelling:
 - 1. Interior walls or vertical studs seriously list, lean or buckle to such extent as to render the dwelling unsafe.
 - 2. Supporting member or members showing 33 percent or more of damage or deterioration, or nonsupporting, enclosing or outside walls or covering showing 50 percent or more of damage or deterioration.
 - 3. Floors or roofs having improperly distributed loads, overloaded, or having insufficient strength to be reasonably safe for the purpose used.
 - 4. Such damage by fire, wind, or other causes as to render the dwelling unsafe.
 - 5. Dilapidation, decay, unsanitary conditions or disrepair dangerous to the health, safety, or welfare of the occupants or other people in the City or its environs.
 - 6. Inadequate facilities for egress in case of fire or panic.
 - 7. Defects significantly increasing the hazards of fire, accident or other calamities.
 - 8. Inadequate ventilation, light, heating or sanitary facilities endangering the health, safety or general welfare of the occupants or other residents of the City or its environs.
 - 9. Improper electrical, heating or plumbing facilities required by this Article which constitute a health or a safety hazard.
 - 10. Lack of adequate weatherization as required by Section 9-11-100.
 - 11. Lack of an operable smoke detector as required by Section 9-11-100.
- (b) Irrespective of the above, a dwelling may be construed by the inspector to be unfit for human habitation, and the inspector shall so find, if such dwelling contains any violations of any of the minimum standards set forth in Section 9-11-100, which, in the judgment of the inspector, renders any dwelling dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the City.

Sec. 9-2-105 - Procedure for enforcement.

- (a) *Initiation of preliminary investigation.* The inspector shall initiate a preliminary inspection of a dwelling when a petition is filed by a public authority or at least five (5) residents of the City charging that the dwelling is unfit for human habitation. The inspector shall also initiate a preliminary inspection of a dwelling whenever it appears to the inspector that any dwelling is unfit for human habitation.
- (b) *Notice of complaint.* If the inspector's preliminary investigation discloses a basis for determining that a dwelling is unfit for human habitation due to violations of the minimum standards provided for in this Article, the inspector shall issue and cause to be served upon the owner and parties in interest of the dwelling a complaint stating the charges and containing a notice that a hearing at a place certain will be held before the

inspector, not less than 10 days nor more than 30 days after serving of said complaint. Notice of such hearing shall also be given to at least one (1) person signing a petition relating to such dwelling.

- (c) *Hearing.* The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony and evidence relevant to the matter, at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.
- (d) *Procedure after hearing.*

1. After such notice and hearing, the inspector shall determine whether the dwelling is unfit for human habitation. If the inspector determines that the dwelling is unfit for human habitation, the inspector shall provide written findings of facts in support of such determination and the inspector shall issue and cause to be served upon the owner thereof an order directing and requiring the owner,
 - a. If the repair, alteration or improvement of the dwelling can be made at a cost equal to or less than sixty-five percent ($\leq 65\%$) of the value of the dwelling, to repair, alter or improve the dwelling to comply with the minimum standards established by this Article, within a specified period of time, not to exceed thirty (30) days; or
 - b. If the repair, alteration or improvement of the dwelling would cost an amount in excess of sixty-five percent ($> 65\%$) of the value of the dwelling, the order shall require the owner to demolish the dwelling, within a specified period of time, not to exceed thirty (30) days.
 - c. The order may require that the dwelling be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the dwelling; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities.
2. Such orders shall state that the failure to make timely repairs as directed shall make the dwelling subject to the issuance of an unfit order. Such orders shall further state that if the owner does not make the necessary repairs, alterations, or improvements to correct existing violations, or fails to vacate and close or demolish and remove the dwelling, as specified in the order, the inspector will submit a request to the City Council to adopt an ordinance ordering the inspector to repair, alter, improve, vacate and close, or demolish and remove the dwelling.

Notwithstanding any other provision of law, if the dwelling is located in a historic district of the City and the Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with N.C.G.S. 160A-400.14(a)

3. Whenever a determination is made that a dwelling must be vacated and closed, or removed or demolished, under the provisions herein, notice of the order shall be

given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of forty-five (45) days from the mailing of such notice shall be given before removal or demolition by action of the inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the dwelling or premises for the purpose of providing affordable housing. The inspector or City Clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the inspector to wait forty-five (45) days before causing removal or demolition.

4. If, within the time fixed by the inspector for repairing, altering or improving the dwelling, the inspector finds there has been substantial compliance with the provisions of the order, or that the owner has filed with the inspector a copy of a written contract with a contractor to make such repairs, alterations or improvements, the inspector may extend the time for compliance for an additional period not exceeding 90 days.
5. If the owner does not make the necessary repairs, alterations, or improvements to the dwelling to comply with the minimum standards established by this Article, or fails to vacate and close the dwelling, within the time specified in the order, the inspector shall take one (1) or more of the following actions in accordance with this Section:
 - a. Secure the issuance of a warrant charging such owner with violation of this Article.
 - b. Cause such dwelling to be repaired, altered, improved, provided that an ordinance ordering the inspector to effectuate this action has first been approved by City Council. Any such ordinance adopted by City Council shall be recorded in the Office of the Register of Deeds in the county wherein the dwelling is located and shall be indexed in the name of the owner in the grantor index.
 - c. Cause such dwelling to be vacated and closed, provided that an ordinance ordering the inspector to effectuate this action has first been approved by City Council. Any such ordinance adopted by City Council shall be recorded in the Office of the Register of Deeds in the county wherein the dwelling is located and shall be indexed in the name of the owner in the grantor index. The inspector shall cause to be posted on the main entrance of the dwelling for which an ordinance has been adopted by City Council ordering the owner to vacate and close the 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." The inspector shall notify the Customer Services Department for the City of all dwellings found unfit for human habitation that are vacant so that the Customer Services Department for the City can discontinue services until such time as there is compliance with the order.
6. If the owner of a dwelling, which has been found unfit for human habitation, shall fail to comply with an order of the inspector issued pursuant to this Article to demolish and remove the dwelling, the inspector may cause the dwelling to be

demolished and removed, provided that the City Council by ordinance has ordered the inspector to proceed to effectuate such action. Any such ordinance adopted by City Council shall be recorded in the Office of the Register of Deeds in the county wherein the dwelling is located and shall be indexed in the name of the owner in the grantor index. No such ordinance shall be adopted until the owner has first been given a reasonable opportunity to bring the dwelling into conformity with this Article.

7. As provided by G.S. 160A-443(6), the amount of the cost of any repairs, alterations, improvements, vacating and closing, or demolition and removal by the inspector shall be a lien against the real property upon which such cost was incurred; said lien shall be filed, have the same priority and be collected or foreclosed upon in the same manner as is provided for special assessments pursuant to Article 10, Chapter 160A of the North Carolina General Statutes. The amount of the cost is also a lien on any other real property of the owner located within the City limits or within one mile thereof except for the owner's primary residence. This additional lien is inferior to all prior liens and shall be collected as a money judgment. If the dwelling is removed or demolished by the inspector, the inspector shall sell the materials of the dwelling, and any personal property, fixtures 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 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 (in a special proceeding brought before the Clerk of Superior Court for said purpose). All liens shall be filed in the Office of the Register of Deeds of the county where the dwelling is located.
 8. Failure on the part of any owner or party in interest to receive or have served upon him any complaint, notice or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person, firm, or corporation.
 9. The inspector is hereby authorized to fix reasonable value of any dwelling for the purpose of this Article and such value shall be binding, unless the owner protests such value in writing to the inspector within ten (10) days after receipt of an order.
 10. A twenty-five dollar (\$25.00) inspection fee shall be charged for any type of courtesy inspection requested by any person.
- (f) *Dwellings vacated and closed for one year or more.*
1. If the owner of a dwelling which has been vacated and closed under the provisions of this Article shall fail to repair, alter, or improve the dwelling within one (1) year of the date on which the dwelling was vacated and closed, the City Council may, after the expiration of such one (1) year period, enact an ordinance, which shall be recorded in the Office of the Register of Deeds in the county wherein the dwelling is located and indexed in the name of the owner in the grantor index, requiring the owner to do the following:
 - a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then

current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days; or

- b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner demolish and remove the dwelling within ninety (90) days.
2. Prior to enacting such an ordinance, the City Council shall find:
 - a. That the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation; and
 - b. The continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the City in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants and would attract persons intent on criminal activities, would cause and contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this City.
3. If the owner fails to comply with subsection (f) of this Section, the inspector shall effectuate the purpose of this Article and the amount of the cost of repairing, altering, improving, or demolishing and removing the dwelling by the City shall be a lien against the real property upon which the costs were incurred pursuant to subsection (e)(7) of this Section.

Sec. 9-2-106 - Certificate of compliance.

It shall be unlawful for any owner to rent or offer for rent any vacant dwelling or part thereof upon which an order to repair, alter, improve, or to vacate and close has been issued without the owner first filing application for and securing a certificate of compliance from the inspector. The inspector shall issue a certificate of compliance when, after examination and inspection, it is found that the repairs, alterations, and improvements have been made and that the dwelling conforms with the provisions of this Article. The owner requesting a certificate of compliance shall pay no fee for the first two (2) inspections required in which the owner is seeking a certificate of compliance; provided, however, the owner shall pay a fee of twenty-five dollars (\$25.00) for each subsequent reinspection required. Any violation of this Section by the owner shall subject the violator to a fine of fifty dollars (\$50.00) a day or thirty (30) days imprisonment for each day occupancy of the dwelling is permitted, not to exceed a total of \$500.00 in fines for any one (1) dwelling. Any owner or rental agent so violating this Section by leasing a dwelling before obtaining a certificate of compliance shall be subject to immediate prosecution.

Sec. 9-2-107 - Appeal.

- (a) An appeal to the Board of Adjustment may be taken from any decision or order of the inspector by any person aggrieved thereby or by any officer, board or commission of the City. Any appeal from the inspector to the Board of Adjustment shall be taken within ten (10) days, and shall be taken by filing with the inspector a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of notice of appeal,

the inspector shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, the inspector's decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board of Adjustment, unless the inspector certifies to the Board of Adjustment, after the notice of appeal is filed with him, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of the inspector's 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 (1) day's written notice to the inspector, by the Board of Adjustment, or by a court of record upon petition made pursuant to this Article.

- (b) 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 of Adjustment 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 inspector, but the concurring vote of four members of the Board of Adjustment shall be necessary to reverse or modify any decision or order of the inspector. The Board of Adjustment shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- (c) Every decision of the Board of Adjustment shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board of Adjustment, but not otherwise.
- (d) Any person aggrieved by an order issued by the inspector or a decision rendered by the Board of Adjustment may petition the superior court for an injunction restraining the inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the inspector pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.
- (e) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Article or of any other ordinance or code adopted by the City, or any valid order or decision of the inspector or Board of Adjustment made pursuant to any ordinance or code adopted by the City, the inspector or board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate the violation, to prevent the occupancy of the

dwelling, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

Sec. 9-2-108 - Service of complaints, etc.

Complaints, notices or orders issued by the inspector pursuant to this Article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint, notice, or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the dwelling 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, 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 City at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected. Failure on the part of any owner or party in interest to receive or have served upon him any complaint, notice or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person.

Sec. 9-2-109 - Notice of lis pendens.

Upon the issuance of a complaint and notice of hearing or an order pursuant thereto, the inspector may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing or order attached thereto, in the Office of the Clerk of Superior Court. The notice of lis pendens and a copy of the complaint and notice of hearing or order attached shall be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. From the time and date of recording of such complaint and notice of order, it shall be notice to and binding upon the successors in interest or assigns of the owner. Upon compliance with the requirements of any order based upon such complaint and hearing, the inspector shall direct the Clerk of Superior Court to cancel the notice of lis pendens.

Sec. 9-2-110 - Alternative remedies.

Neither this Article nor any of its provisions shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by summary action or otherwise, and the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. The procedure described in this Article shall be in addition and supplemental to the powers conferred on the City by any other law.

Sec. 9-2-111 - Conflicts 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 City, 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 City shall prevail.

Sec. 9-2-112 - Validity.

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Article.

Sec. 9-2-113 – Violations and penalties.

- (a) It shall be unlawful for any owner of any dwelling to fail, neglect or refuse to repair, alter or improve the same, or to fail to vacate and close or remove and 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 9-11-105 of this Article, 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. All dwellings which are vacated upon order of the inspector to repair or vacate and close the same shall be kept locked and secured in a manner so as not to create a fire and safety hazard or to create a hazard to children or attract vagrants or persons with criminal intent and the lawns and grounds of such vacant dwellings shall be kept free of high grass, weeds, trash and debris. It shall be unlawful for an owner of any dwelling which is vacant and under an order to repair, alter, improve or to remove and demolish same to fail to properly lock and secure same or to keep the lawns and grounds of such dwelling free of high grass, weeds, trash, and debris.
- (b) An owner who fails to comply with an order to repair or to improve, vacate or close any occupied dwelling determined unfit for human habitation pursuant to the provisions contained in Section 9-11-105, or who permits the reoccupancy of a vacant dwelling found to be unfit for human habitation or who fails to secure a vacant dwelling which has been found unfit for human habitation or who fails to keep the lawns and grounds of such dwelling free of high grass, weeds, trash and debris, shall be subject to a civil penalty in the amount of one hundred dollars (\$100.00) for the first day following the expiration of an order to repair, improve, or vacate and close any dwelling or following a determination that any unfit dwelling has been reoccupied in violation of Section 9-11-105 or following notification that a vacant dwelling is to be secured or following notification to cut high grass and weeds or remove trash and debris. In each instance, a civil penalty in the amount of fifty dollars (\$50.00) per day shall be imposed for each subsequent day that the unfit dwelling remains occupied in violation of this Article or a vacant dwelling remains open and not secured or grounds and lawns are not mowed or cleared of trash and debris. If a person fails to pay the civil penalty within ten (10) days after being notified of the amount due, the City may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt. No civil penalty shall be imposed against an owner of an unfit dwelling where the only violation rendering a dwelling unfit is a violation of Section 9-11-101, unless the owner is also the occupant.
- (c) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Article or any order or decision of the inspector or Board of

Adjustment, the inspector is authorized to institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate the violation, to prevent the occupancy of the dwelling, to prevent any illegal act, conduct or use in or about the premises of the dwelling or for any other purpose authorized by G.S. 160A-446(g) or any other law. The failure of the owner to comply with an order issued by the inspector may also be enforced through any equitable or other remedy deemed appropriate by the City and permitted by law.

- (d) No person shall remove or permit the removal of any placard, complaint, notice or order posted in accordance with the provisions of this Article.
- (e) No person shall occupy any dwelling with a placard, complaint, notice or order posted on it in accordance with the provisions of this Article. Occupation of a dwelling so posted shall constitute a Class 1 misdemeanor.
- (f) When the inspector finds that a dwelling is unfit for human habitation within the meaning of this Article and has notified the owner that the time limit set by the inspector for the correction of defects and vacating the dwelling has expired, no person shall receive rentals, offer for rent, or occupy said dwelling for any purpose.
- (g) No person shall damage, mutilate or remove, nor shall any person suffer, permit or cause to be damaged, mutilated or removed, any permanent fixtures from any dwelling.
- (h) It shall be unlawful for the owner of any dwelling upon whom a notice, complaint or order has been served, to sell, transfer, mortgage, lease or otherwise dispose of said dwelling until the provisions of the notice, complaint or order have been complied with, or until such owner shall furnish to the transferee, lessee, or mortgagee, a true copy of any notice, complaint or order issued by the inspector and concurrently give written notice to the inspector of the intent to transfer, lease, or mortgage as to whom the transferee, lessee or mortgagee who had received actual constructive notice of the existence of a notice, complaint or order shall be bound by the notice, complaint or order as of date of the transfer, lease or mortgage without service of further notice upon him.
- (i) The violation of any provisions of this Article shall constitute a misdemeanor as provided by G.S. 14-4.