

CHAPTER 150: MINIMUM HOUSING CODE

Section

General Provisions

- 150.01 Preamble
- 150.02 Scope
- 150.03 Definitions
- 150.04 Application of North Carolina Uniform Residential Building Code

Minimum Standards

- 150.20 General
- 150.21 Base equipment facilities
- 150.22 Minimum requirements for natural light and ventilation
- 150.23 Minimum requirements for electrical systems
- 150.24 Minimum requirements for exterior and interior of structures
- 150.25 Minimum space and use requirements
- 150.26 Sanitation requirements
- 150.27 Obligations of tenant

Administration and Enforcement

- 150.40 Creation of office
- 150.41 Inspections
- 150.42 Refusal to permit entry upon premises
- 150.43 Non-liability of town personnel
- 150.44 Abatement hearing on charges; filing, petition and charges; investigations; time and conduct of hearing
- 150.45 Service of order, contents
- 150.46 Demolition of dwellings following an order of the Code Enforcement Officer
- 150.47 Procedure for repairing, closing or demolishing abandoned structures
- 150.48 Methods of service
- 150.49 Board of Adjustments to hear appeals
- 150.50 Appeals procedure
- 150.51 Enforcement
- 150.52 Nonconforming provisions

- 150.98 Violation
- 150.99 Penalty

GENERAL PROVISIONS

§ 150.01 PREAMBLE.

It is found and declared that there exists in the town dwellings which are unfit for human habitation and are harmful to the health, safety, welfare and morals of the people of the town. Therefore, a public necessity exists for the repair, closing or demolition of these dwellings due to dilapidation, defects that create hazards such as fire, accidents, and other calamities, lack of ventilation, light and other sanitary facilities, and other conditions rendering the dwellings harmful to the health, safety, or welfare of the residents of the town.

(Ord. passed 3-6-1995)

§ 150.02 SCOPE.

- (A) The purpose of this chapter is to protect the public's safety, health, and general welfare by ensuring that dwellings have adequate structural strength, sanitation, light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, demolition and removal, use and occupancy of all dwellings.

- (B) This chapter shall apply to all existing housing and to all new housing constructed within the boundaries of the town. Portable, mobile or demountable buildings and structures when used or intended to be used for housing within the town shall be regulated by this chapter. 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.

(Ord. passed 3-6-1995)

§ 150.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When the words **DWELLING**, **DWELLING UNIT**, **MULTIPLE DWELLING**, or **PREMISES** are used in this chapter, they shall be read as though they are followed by the words "or any part thereof."

ALTER or **ALTERATION**. Any change or modification in construction or occupancy.

APPROVED. Approved by the Code Enforcement Officer.

APPROVED SEWAGE DISPOSAL SYSTEM. A sewage disposal system approved by the Public Health Department or served by a public sewer system.

APPROVED WATER SUPPLY. A water supply approved by the Public Health Department or a public sewer system.

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

BUILDING. Any structure built for the support, shelter; or enclosure of persons, animals, chattels, or property of any kind. The term **BUILDING** shall be construed as if followed by the words "or part thereof."

CELLAR. A portion of a building located partly or entirely underground having an inadequate access to light and air from windows located partly or wholly below level of the adjoining ground.

CODE ENFORCEMENT OFFICER (AND DESIGNATED PERSONS). An official for the town with the responsibility of enforcing this chapter.

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

DILAPIDATED. A dwelling is unfit for human habitation and cannot be repaired, altered, or improved to comply with all the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by findings of the Code Enforcement Officer.

DWELLING. Any building, structure, manufactured home or mobile home, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances normally associated with this use. It does not include any manufactured home or mobile home that is used solely for a seasonal vacation purpose.

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, whether or not such unit is occupied or vacant.

EXIT. A clear and unobstructed route of departure from the interior of a building or structure to the exterior at street or grade level.

EXTERMINATION. The control and elimination of insects, rodents, or other pests by eliminating their harboring places or by removing or making inaccessible materials that may serve as their food. This can be accomplished through poisoning, spraying, fumigating, trapping or by other recognized and legal pest elimination methods approved by the Code Enforcement Officer.

FAMILY. One or more persons living together and having common living, sleeping, cooking, and eating facilities.

FLOOR SPACE. The total square feet of space of all habitable rooms.

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

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes. Rooms that are excluded include: bathrooms, water closet compartments, laundries, heater rooms, foyers and/or communicating corridors, closets and storage spaces.

MAY. Permissible.

MULTIPLE DWELLING. Any building that is designed, built, rented, leased, subleased or otherwise contracted let or hired out to be occupied, or which is occupied as the home or residence of 2 or more families living independently of each other and doing their own cooking in their respective residences. Multiple dwelling shall include but not be limited to flats and apartments.

OCCUPANT. Any person living, sleeping, cooking and eating in or having actual possession of a dwelling or dwelling unit.

OPERATOR. Any person who has charge, care or control of a building in which dwelling units are rented, leased, subleased, or otherwise contracted.

OWNER. The holder(s) 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/or who are in possession of a dwelling.

PLUMBING, The practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and accessories of the following: sanitary drainage or storm drainage facilities, the venting system and public or private water supply systems to their connection with any point of public disposal.

PREMISES. A lot, plot, or parcel of land, including the buildings, dwellings and structures defined in this Code.

REMOVAL. The demolition and approved disposal of the entire building. The premises shall be free and clear of all debris with no holes or pockets in which water can collect.

REQUIRED. Mandatory.

RESIDENTIAL OCCUPANCY. Buildings in which families or households live or in which sleeping accommodations are provided. These buildings shall include, but not be limited to, the following dwellings: multiple dwellings, and lodging houses, and all dormitories.

RUBBISH. Combustible and noncombustible waste material except garbage, and the term shall include, but not be limited to, ashes, paper, rags, cartons, wooden boxes, rubber, leather, tin cans, metals, mineral matter, glass, crockery, and dust.

SHALL. Mandatory.

SHOULD. Recommended.

STAIRWAY. One or more flights of stairs, and the necessary landings and platforms connecting them, that form a continuous and uninterrupted passage from one story to another in a building or structure.

STORY. The part of a building between a floor and the floor or roof above.

STRUCTURE. Something which is built or constructed, a building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term **STRUCTURE** shall be read as if followed by the words "or part thereof."

SUBSTANDARD. Any condition existing in any housing, building, or structure which does not meet the standards of fitness of this Code.

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

UNFIT FOR HUMAN HABITATION. Defined in this chapter.

VENTILATION. The process of supplying and removing air by natural or mechanical means to or from any dwelling. **MECHANICAL VENTILATION** means ventilation by power driven devices. **NATURAL VENTILATION** means ventilation by windows, skylights, doors, louvers or stacks with or without wind-driven devices.

(Ord. passed 3-6-1995)

§ 150.04 APPLICATION OF NORTH CAROLINA UNIFORM RESIDENTIAL BUILDING CODE.

Repairs and alterations shall be performed in compliance with the State Residential Building Code.

(Ord. passed 3-6-1995)

MINIMUM STANDARDS

§ 150.20 GENERAL.

No person shall occupy as owner-occupant or let to another person for residential occupancy any dwelling or dwelling unit designed or intended to be used for living, sleeping, cooking, or eating that does not comply with the following requirements.

(Ord. passed 3-6-1995)

§ 150.21 BASE EQUIPMENT FACILITIES.

- (A) *Sanitary facilities required.* Every dwelling unit shall contain at least a kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition and properly connected to an approved water supply and sewage disposal system.

- (B) *Location of sanitary facilities.* All required sanitary facilities shall be located in the dwelling and be accessible to the occupants. The water closet, tub or shower shall be located in a room affording privacy to the user.
- (C) *Hot and cold water supply.* Every dwelling unit shall have an adequate supply of both cold water for the kitchen sink, lavatory, and tub or shower. Adequacy of the water supply will be determined by the Code Enforcement Officer. All water shall be supplied through an approved pipe distribution system connected to an approved water supply.
- (D) *Heating facilities.*
 - (1) Every dwelling shall have heating facilities installed in accordance with the appropriate Building, Gas, or Electrical Code. Heating facilities shall be capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling to a temperature of at least 70 degrees Fahrenheit at a distance of 3 feet above floor when temperature is 20 degrees Fahrenheit degrees outside.
 - (2) Where central heating system is not provided, each dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, or vents, so that heating appliances may be connected. These appliances will provide a minimum temperature of 70 degrees Fahrenheit at a distance of 3 feet above floor when temperature is when 20 degrees Fahrenheit outside.
- (E) *Cooking equipment.* All cooking equipment shall be installed in accordance with the appropriate Building, Gas, or Electrical Code and shall be maintained in a safe and good working condition,
- (F) *Cabinet and kitchen storage.* Each dwelling unit should contain a minimum of 4 square feet, counter top, 25 square feet of storage and 5 square feet of drawer space.
- (G) *Smoke detector systems.* Each occupied dwelling unit shall contain at least one approved operable smoke detector installed outside each sleeping area on or near the ceiling. The detector shall be electrically or battery operated and provide an audible alarm. An alarm is considered operable when a working battery is installed in the detector or the electricity is on. The occupant head of household is responsible for maintaining a lawful source of electricity.
- (H) *Fire protection.* No person shall occupy as owner-occupant or allow another to occupy any building or structure which does not comply with the applicable provisions of the Fire Prevention Code of the applicable governing body.

(Ord. passed 3-6-1995)

§ 150.22 MINIMUM REQUIREMENTS FOR NATURAL LIGHT AND VENTILATION.

(A) *Habitable rooms.*

- (1) Every habitable room shall have at least one window or skylight facing directly to the outside with a minimum total window/skylight area of 8 square feet for every habitable room.
- (2) Every habitable room shall have other mechanical ventilation if the area of the window/skylight that can be opened in the room is not at least 45 % of the required window area.

(B) *Bathroom.* Every bathroom should comply with the ventilation requirements for habitable rooms.

(Ord. passed 3-6-1995)

§ 150.23 MINIMUM REQUIREMENTS FOR ELECTRICAL SYSTEMS.

- (A) All fixtures, receptacles, equipment, and wiring for existing dwellings shall be maintained in good repair and be safe, capable of being used, and installed and connected to the source of electrical power in accordance with the Electrical Code of the state.
- (B) The minimum capacity of the service supply and the main disconnect switch for existing dwellings shall be sufficient to carry the total load required in accordance with the Electrical Code of the state.
- (C) Every dwelling shall be adequately and safely wired for electric lights and convenient receptacles. Every habitable room shall have provision for adequate lighting and other necessary electrical service, with kitchen, bath, hall and exits having ceiling and/or wall mounted fixtures.
- (D) Every public hall and stairway in every multiple dwelling containing 5 or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than 4 dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

(Ord. passed 3-6-1995)

§ 150.24 MINIMUM REQUIREMENTS FOR EXTERIOR AND INTERIOR OF STRUCTURES.

- (A) *Foundation.* The building's foundation, walls, piers, or other elements shall be maintained in a safe manner and be capable of supporting the load created by normal use.

- (B) *Exterior walls.* The exterior walls shall be substantially weathertight, watertight, and shall be maintained in sound condition and good repair.
- (C) *Roofs.* Roofs shall be maintained in a safe manner and must be capable of supporting the normal load placed on them. They must also be substantially weather- and water-tight and be maintained in sound condition and good repair.
- (D) *Chimney.* The chimney shall either be maintained in a safe and sound condition with no loose brick or mortar or properly closed down and sealed off.
- (E) *Means of exit.* Every dwelling unit shall have two safe, unobstructed means of exit, with minimum ceiling height of 7 feet, leading to a safe and open space at the ground level, except where 1 means of exit is permitted by the State Building Code.
- (F) *Stairs.* Every inside and outside stair shall be safe to use and capable of supporting the loads created by normal use and shall be kept in sound condition and good repair.
- (G) *Storage closets.* Every dwelling unit should contain storage and/or closet facilities.
- (H) *Porches and appurtenances.* Every outside porch and their attachments shall be safe to use and capable of supporting the loads created by normal use and shall be kept in sound condition and good repair.
- (I) *Exterior windows and doors of habitable area.* Every window and door (including basement or cellar door and hatchway) shall be substantially weather tight, watertight, rodent proof and shall be kept in sound working condition. Exterior doors shall have workable locks.
- (J) *Basement/cellar/crawl space windows, doors and hatchways.* Basement/cellar/crawl space windows, doors and hatchways shall be kept in sound working condition and be substantially rodent proof.
- (K) *Doors.* Every bathroom and bedroom should have a door in good working condition, with a privacy lock on the door.
- (L) *Screens.* Every window or other device with opening to outdoor space shall have screens that are tight fitting, free of holes, and not nailed to sash. Dwellings containing central heating furnaces and adequate cooling equipment for mechanically ventilating the building year round are not required to have screens on doors or window openings.
- (M) *Interior floors, walls, and ceilings.* Every floor, wall, or ceiling shall be substantially rodent proof, kept in sound condition and good repair, be safe to use, and be capable of supporting the loads created by normal use. They shall also be free from cracks and holes which permit air to excessively penetrate a room. No cardboard or other highly combustible material shall be allowed as a finish.
- (N) *Structural supports.* Every structural element of the dwelling shall be structurally sound and have no deterioration which would render it incapable of carrying loads created by normal use.

- (O) *Protective railings and handrails.* Protective railings should be required on any unenclosed structure over 36 inches above adjacent finish grade. Exterior and interior stairwells with more than 4 risers shall have handrails located in accordance with the Building Code. Handrails or protective railings shall be capable of bearing normally imposed loads and be maintained in a safe and sound condition.
- (P) *Residential accessory structures.* Garages, storage buildings and other accessory structures shall be maintained and kept in a safe and sound structural condition.

(Ord. passed 3-6-1995)

§ 150.25 MINIMUM SPACE AND USE REQUIREMENTS.

- (A) *Required space and sleeping rooms.* Every dwelling unit shall have at least 80 square feet of bedroom floor space for the first occupant; at least 20 square feet of additional bedroom floor space for the second occupant; and at least 30 square feet of additional bedroom floor space for each additional occupant. Children one year old and under shall not be counted.
- (B) *Required space in dwelling unit.* Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant and at least 100 additional square feet of floor area per additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.
- (C) *Occupancy of dwelling unit below grade.* Basement or cellar space shall not be used as a habitable room or dwelling unit unless meeting all specifications for habitable rooms.

(Ord. passed 3-6-1995)

§ 150.26 SANITATION REQUIREMENTS.

- (A) *Sanitation and cleanliness.* Every occupant of a dwelling unit shall be responsible for maintaining it in a clean and sanitary condition, and the occupant shall avoid creating unclean, unsanitary, or unsafe conditions in the common areas. Every owner of a multiple dwelling shall maintain the common areas in a clean and sanitary condition.
- (B) *Garbage and rubbish storage.* Every person who occupies and controls a dwelling unit shall dispose of all rubbish and garbage in a clean and sanitary manner by placing it in proper storage facilities. The persons who occupy and control single-family and two-family dwellings shall be responsible for providing the approved receptacles for disposing of garbage and rubbish. In the case of multifamily housing the owner shall be responsible for providing the approved receptacles for the storage of garbage and rubbish.
- (C) *Extermination.* Every occupant of a single dwelling and every owner of a building containing 2 or more dwelling units shall be responsible for the extermination of insects, rodents, or other pests within the building or premises by a generally accepted method.

(D) *Use and operation of supplied plumbing fixtures.* Every occupant of a dwelling unit shall be responsible for the exercise of reasonable care in the proper use and operation of plumbing fixtures.

(Ord. passed 3-6-1995)

§ 150.27 OBLIGATIONS OF TENANT.

The tenant shall:

- (A) Keep the part of the premises which he occupies and uses as clean and safe as the conditions of the premises permit and cause no unsafe or unsanitary conditions in the common area and remainder of the premises which he uses.
- (B) Dispose of all ashes, rubbish, garbage, and other waste in a clean and safe manner.
- (C) Supporting members or members which show 33 % or more damage or deterioration or non-supporting, enclosing or outside walls or covering which show 50% or more of damage or deterioration.
- (D) Floors or roofs which are overloaded or which have insufficient strength to be reasonably safe for the purpose used,
- (E) Such damage by fire, wind, or other causes as to render the building unsafe.
- (F) Dilapidation, decay, unsanitary conditions, or disrepair which is dangerous to the health, safety, or welfare of the occupants or other people.
- (G) Inadequate facilities for exit in case of fire or panic.
- (H) Defects significantly increasing the hazards of fire, accident, or other calamities.
- (I) 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.
- (J) Lack of proper electrical, heating or plumbing facilities required by this chapter which constitutes a health or a safety hazard.
- (K) Lack of property located and installed smoke detectors.

(Ord. passed 3-6-1995)

ADMINISTRATION AND ENFORCEMENT

§ 150.40 CREATION OF OFFICE.

The Code Enforcement Officer shall have necessary powers to carry out and effectuate the purposes and provisions of this chapter, including, without limiting the generality of the foregoing, in

addition to others herein granted, the following powers.

- (A) *Inspections.* The Code Enforcement Officer is authorized to order or make inspections to determine the condition of residential buildings and premises in the interest of safeguarding the health and safety of the occupants and of the general public. His examination of dwellings and buildings will be governed by the requirements set forth in this chapter.
- (B) *Oaths, witnesses, and the like.* The Code Enforcement Officer shall have the authority to administer oaths, affirmations, and to examine witnesses and receive evidence.
- (C) *Delegation of functions.* The Code Enforcement Officer shall have the authority to delegate any of his functions and powers under this subchapter to such officers and agents within his department as he may designate.

(Ord. passed 3-6-1995)

§ 150.41 INSPECTIONS.

The Code Enforcement Officer is authorized to make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the unincorporated and jurisdictional areas of the town in order that he may perform his duty of safeguarding the health and safety of the occupants of dwellings and of the general public. The Code Enforcement Officer is authorized to enter, examine, and survey at reasonable times all dwellings, dwelling units, or rooming units and premises for the purpose of making such inspections. The owner, occupant, or person in charge of every dwelling, dwelling unit, or rooming unit shall, upon being presented with proper credentials, give the Code Enforcement Officer free access to their dwelling, dwelling unit, or rooming unit and its premises at all reasonable times for the purpose of such inspections, examinations and surveys. Every occupant of a dwelling or dwelling unit shall give the owner or his agent or employee, access to any part of such dwelling or dwelling unit 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 subchapter or with any lawful order issued pursuant to the provisions of this Code. If the occupant refuses admission for this purpose, admission may be obtained through the provisions of G.S. Ch. 15, Art. 4A.

(Ord. passed 3-6-1995)

§ 150.42 REFUSAL TO PERMIT ENTRY UPON PREMISES.

It shall be unlawful for any owner or person in possession of premises on which housing is located in the unincorporated and jurisdictional areas of the county to refuse, after being presented with a warrant as issued under G.S. § 15-27.2, to permit the Code Enforcement Officer or his duly appointed agents to enter upon the premises for the purposes of making examinations as authorized by this chapter. Violation of this section shall constitute a misdemeanor.

(Ord. passed 3-6-1995) Penalty, see § 150.99

§ 150.43 NONLIABILITY OF TOWN PERSONNEL.

No officer, agent or employee of the town shall make himself 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 chapter. Any suit brought against any officer, employee or agent of the town as a result of any act required or permitted in the discharge of the duties under this chapter may be defended by the Town Attorney or retained counsel until the final determination of the proceedings. (Ord. passed 3-6-1995)

§ 150.44 ABATEMENT BEARING ON CHARGES; FILING, PETITION AND CHARGES; INVESTIGATIONS; TIME AND CONDUCT OF HEARING.

A petition charging that a dwelling is unfit for human habitation can be filed with the Code Enforcement Officer by any public authority, or 5 or more residents of the town, or by the Code Enforcement Officer on his own motion. The Code Enforcement Officer shall conduct a preliminary investigation to determine whether there is a basis for the charge(s). If there is a sufficient basis for the petition, the Code Enforcement Officer will serve a complaint stating the particulars of the charge to the owner and parties of interest. The complaint shall also contain a notice informing the owner and parties of interest that a hearing will be held before the Code Enforcement Officer (or his designated agent) at a stated time and place. This hearing shall be held not less than 10 days nor more than 30 after the serving of the complaint. Owner and parties of interest shall be given a 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 rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Code Enforcement Officer.

(Ord. passed 3-6-1995)

§ 150.45 SERVICE OF ORDER, CONTENTS.

- (A) If, after a notice and hearing, the Code Enforcement Officer determines that the dwelling in question is unfit for human habitation, he shall state in writing his findings of fact in support of such determination, stating whether the building is deteriorated or dilapidated. If the Code Enforcement Officer determines that the violation was proximately caused by the occupant or guest or invitee of the occupant, he shall state so in his findings of fact. The Code Enforcement Officer shall issue and serve a copy of the order upon all parties in interest as provided below. The order shall contain a Notice of Right to Appeal within 10 days to the Board of Adjustment.
 - (1) *Deteriorated dwelling.* If the repair, alteration, or improvement of a deteriorated dwelling can be made at a cost less than 50% of the present value of the dwelling, the order shall require the owner, within a specified period of time, not exceeding 90 days, to repair, alter, or improve such dwelling so as to render it safe. The order may also direct and require the owner to vacate and close the dwelling until the repairs, alterations and improvements have been made and/or the unsafe and dangerous character of such dwelling has been corrected.

- (2) *Dilapidated dwelling.* If the repair, alteration or improvement of a dilapidated dwelling cannot be made at cost of less than 50% of the present value of the dwelling, the order shall require the owner, within a specified period of time, not to exceed 90 days, to either repair, alter, or improve such dwelling to bring it into compliance with the standards described in this chapter or to demolish and remove the dwelling.
- (B) The time period specified for making repairs, alteration or improvements may be extended (not to exceed 45 days) by the Code Enforcement Officer upon written application and for just cause shown.
- (C) The Code Enforcement Officer is authorized to fix the reasonable value of any dwelling for the purpose of this section and his estimate shall be binding unless the owner protests the determined value in writing to the Code Enforcement Officer within 10 days after the receipt of an order. Upon receiving a protest, the Code Enforcement Officer shall nominate one competent and disinterested person; the protesting party shall nominate one competent and disinterested person; and the two nominated persons shall nominate a third competent disinterested person; and these three persons shall serve as commissioners of appraisal. These commissioners shall make their appraisal of value of the dwelling under consideration, shall return the appraisal to the Code Enforcement Officer and the protesting party within 10 days after their appointment, and this appraisal shall be binding and conclusive for the purpose of this section. The cost of any such appraisal shall be paid by the protesting party to the Code Enforcement Officer at the time of filing written protest.

(Ord. passed 3-6-1995)

§ 150.46 DEMOLITION OF DWELLINGS FOLLOWING AN ORDER OF CODE ENFORCEMENT OFFICER.

- (A) After the Code Enforcement Officer has issued an order and the Town Council has passed an ordinance ordering a dwelling to be repaired or vacated and closed pursuant to the provisions of this section, and the owner has vacated and closed the dwelling and kept it vacated and closed for 1 year, the Town Council may find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be harmful to the health, safety, morals and welfare of the municipality; then in such circumstances, after the 1-year period, the Town Council may pass an ordinance and serve it to the owner, requiring that the owner either:
 - (1) Repair or demolish and remove the dwelling within 90 days, if the repair necessary to render the dwelling fit for human habitation would cost less than 50% of the present value of the dwelling; or
 - (2) Demolish and remove the dwelling within 90 days if the repair necessary to render the dwelling fit for human habitation would cost in excess of 50% of the present value of the dwelling.

- (B) The order shall be recorded in the Office of the Register of Deeds of the town and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this order within the specified time, then the Code Enforcement Officer shall order the dwelling to be repaired or demolished and removed.

(Ord. passed 3-6-1995)

§ 150.47 PROCEDURE FOR REPAIRING, CLOSING OR DEMOLISHING ABANDONED STRUCTURES.

In addition to the exercise of police power authorized with respect to dwellings, the Code Enforcement Officer shall order the repair, closure or demolition of any abandoned structure which the Town Council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. The repair, closing or demolition of such structures shall be in accordance with the same provisions and procedures prescribed in the town's Minimum Code, for the repair, closing or demolition of dwellings found to be unfit for human habitation.

(Ord. passed 3-6-1995)

§ 150.48 METHODS OF SERVICE.

Complaints or orders issued by the Code Enforcement Officer and/or the Town Council shall be served to persons either personally or by registered or certified mail. If the location of these persons is unknown and cannot be ascertained by the Code Enforcement Officer in the exercise of reasonable diligence, as stated by the Code Enforcement Officer in an affidavit, then the serving of the complaint or order upon such person may be made by publishing the complaint at least once, no less than 10 days nor more than 30 days prior to the hearing, in a newspaper of general circulation in the county. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. passed 3-6-1995)

§ 150.49 BOARD OF ADJUSTMENTS TO HEAR APPEALS.

The Board of Adjustment shall hear and determine appeals from any decision or order of the Code Enforcement Officer.

(Ord. passed 3-6-1995)

§ 150.50 APPEALS PROCEDURE.

- (A) An appeal from any decision or order of the Code Enforcement Officer may be taken by any aggrieved party. Any appeal from the Code Enforcement Officer shall be taken within 10 days from the rendering of the decision or issuance of the order by filing in writing with the Code Enforcement Officer a notice of appeal. The notice of appeal must specify the grounds upon which the appeal is based. Upon the filing of

any notice of appeal, the Code Enforcement Officer shall transmit to the Board of Adjustment all the papers pertaining to the appealed decision.

- (B) The Board of Adjustment shall set a reasonable time for hearing appeals, shall give notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by a managing agent or by attorney. The Board may reverse or affirm, wholly or in part, 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. The votes of a simple majority of the Board of Adjustment shall be necessary to reverse or modify any decision or order of the Code Enforcement Officer. The Board of Adjustment shall have power also when 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 proceeding in the nature of certiorari filed in the Superior Court of local jurisdiction within 15 days of the decision.

(Ord. passed 3-6-1995)

§ 150.51 ENFORCEMENT.

- (A) If the owner of a deteriorated dwelling fails to comply with an order to repair or improve the dwelling, unless an appeal is taken from such order in accordance with §§ 150.49 and 150.50, the Code Enforcement Officer may:
 - (1) Secure the issuance of a warrant charging such owner with a violation of the standards of fitness established by this Code;
 - (2) Order the dwelling to be repaired, altered, or improved and, pending such repairs, alterations, or improvements, may order the dwelling vacated and closed; and
 - (3) Post on the main entrance of any dwelling so closed a placard with the following words:

"THIS DWELLING IS UNFIT FOR HUMAN HABITATION; THE USE OR OCCUPATION OF THIS DWELLING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL."

- (B) If the owner of a dilapidated dwelling fails to comply with an order to vacate and close, or fails to remove or demolish the dwelling, unless an appeal is taken from such order in accordance with §§ 150.49 and 150.50, the Code Enforcement Officer may:
 - (1) Issue a warrant charging such owner with violation of this Code;

- (2) Order the dwelling to be vacated and closed and removed or demolished; and
- (3) Post on the main entrance of any dwelling so closed a placard with the following words:

"THIS DWELLING IS UNFIT FOR HUMAN HABITATION; THE USE OR OCCUPATION OF THIS DWELLING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL."

- (C) The Code Enforcement Officer shall not repair, alter, improve, or demolish, and remove any dwelling or perform any other duties set forth in divisions (A) and (B) of this section until the Town Council has passed an ordinance authorizing the Code Enforcement Officer to proceed with the implementation of this Code. The property or properties shall be recorded in the Office of the Register of Deeds of the town and shall be indexed in the name of the property owner in the grantor index.
- (D) The amount of the cost of such repairs, alterations, or improvements or vacating and closing or demolition and removal by the Code Enforcement Officer shall be a lien against the real property upon which the cost was incurred. The lien shall be filed; have the same priority; and be collected or foreclosed upon in the same manner as is provided for assessments for local improvements. If the dwelling is demolished and removed by the Code Enforcement Officer, he shall sell the materials of such dwelling and shall credit the proceed of such sale against the cost of the demolition and removal and any balance remaining shall be deposited in the office of the Clerk of Superior Court by the Code Enforcement Officer, shall be secured in such manner as may be directed by such court, and entitled thereto by final decree of such court in a special proceeding brought before the Clerk of Superior Court for this purpose.
- (E) If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the county to remove the occupant. The action to vacate the dwelling shall be a summary ejectment and shall commence by filing a complaint naming as parties-defendant any person occupying the dwelling. An action to remove an occupant of a dwelling who is a tenant of the owner shall not be a summary ejectment proceeding pursuant to this paragraph unless the occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding.

(Ord. passed 3-6-1995)

§ 150.52 NONCONFORMING PROVISIONS.

This chapter shall be construed in accordance with G.S. Ch. 160A, Art. 19, Part 6, which shall control in event of conflict.

(Ord. passed 3-6-1995)

§ 150.98 VIOLATION.

If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this chapter, or any valid order or decision of the Code Enforcement Officer or the Town Council made pursuant to this chapter, or, if payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the Town Attorney for institution of a civil action in the name of the county in the appropriate division of the general courts of justice for recovery of the penalty.

(Ord. passed 3-6-1995) Penalty, see § 150.99

§ 150.99 PENALTY.

- (A) It shall be unlawful for the owner of any dwelling to fail, neglect or refuse to repair, alter or improve the dwelling, or to vacate and close and demolish and remove the dwelling upon order of the Code Enforcement Officer within the time specified in an order issued in accordance with this Code. Each day that any failure, neglect, or refusal to comply with an order continues shall constitute a separate and distinct offense.
- (B) No person shall receive rentals, offers for rent, or occupy such dwelling unfit as a human habitation after the Code Enforcement Officer finds that a dwelling is unfit for human habitation and the time limit set by the Code Enforcement Officer (or in the event of appeal, the time limit set by the Board of Adjustment) for the correction of defects or vacating the dwelling has expired. Each day such offense continues shall be deemed a separate offense. Any person violating these provisions shall be guilty of a misdemeanor and, upon conviction, an offender shall be punished by a fine or not more than \$500 for each separate offense, or imprisonment of not more than 30 days, as provided by G.S. § 14-4.
- (C) An owner who fails to comply with an order to repair, alter or improve any occupied dwelling determined unfit for human habitation pursuant to the provisions contained in § 150.45 shall also be subject to a civil penalty of \$100 for each day following the expiration of the time period specified in the order for repair, alteration or improvement. If a person fails to pay the civil penalty within 10 days after being notified of the assessment of a civil penalty, the Town Attorney is authorized to institute a civil action in the name of the town to recover the penalty, together with all costs in the General Court of Justice in the nature of a suit to collect a debt.

(Ord. passed 3-6-1995)