

Action to repeal Town Code, Section 5: Minimum Standards for Occupancy, Section 5.1 - Section 5.39 and replace with the new proposed language below.

## **Section 5. – MINIMUM STANDARDS FOR OCCUPANCY**

### **Article 1: RESIDENTIAL MINIMUM HOUSING**

**State Law reference**— Municipal housing standards authorized, G.S. § 160A-441 et seq.

#### **DIVISION 1. - GENERALLY**

##### **Sec. 5-1.1.1. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit" and "premises" are used in this article, they shall be construed as though followed by the words "or any part thereof."

*Accessory building* or *outhouse* means a building or structure the use of which is incidental to that of the main building or structure and which is located on the same lot or a contiguous lot.

*Alter* or *alteration* means any change or modification in construction or occupancy.

*Basement* means a portion of a building located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

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

*Code/Building official* means the official or other person charged with the administration and enforcement of this article or duly authorized representative.

*Dwelling* means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any temporary dwelling or any manufactured home or mobile home, which is used solely for a seasonal vacation purpose. "Manufactured home" or "mobile home" means a structure as defined in G.S. § 143-145(7).

*Dwelling unit* means 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.

*Exit* means a clear and unobstructed way of departure from the interior of a building or structure to the exterior at street or grade level.

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

*Floor area* means the total area of all habitable space in a building or structure.

*Garbage* means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

*Habitable room* means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments and laundries.

*Infestation* means the presence, within or around a dwelling of any insects, rodents or other pests.

*Multiple dwelling* means any building or portion thereof which is designed, built, rent, leased, let or hired out to be occupied or which is occupied as the home or residence of more than two (2) families living independently of each other and doing their own cooking in the building, and shall include flats and apartments.

*Occupant* means any person over one (1) year of age, living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

*Openable area* means that part of a window, porch or door which is available for unobstructed ventilation and which opens directly to the outdoors.

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

*Owner* means any person who, alone or jointly, or severally with others:

- (1) Has title to any dwelling or dwelling unit, with or without accompanying actual possession thereof;
- (2) Has the charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he is the owner.

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

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

*Premises* means a lot, plat or parcel of land, including the buildings or structures thereon.

*Public authority* means any housing authority, or any official in charge of any department or branch of the government of the Town, the county or the state relating to health, fire or building regulations, or to other activities concerning housing in the Town.

*Rooming/Boarding house* means any dwelling or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to two (2) or more persons, who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

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

*Removal* means the demolition and removal of the entire building, leaving the premises free and clear of any debris; any excavation properly filled in and with no holes or pockets which retain water.

*Rubbish* means combustible or noncombustible waste materials except garbage, including but not limited to, the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust, and discarded appliances.

*Story* means that part of a building between one (1) floor and the floor or roof next above.

*Structure* means 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 "structure" shall be construed as if followed by the words "or part thereof."

*Substandard* means any condition existing in any housing or structure which does not meet the standards of fitness of this article.

*Supplied* means paid for, furnished or provided by, or under the contract of, the owner or operator.

*Temporary housing* means any tent, trailer or other structure used for human shelter which is designed to be transportable (i.e. Motor home) and which is not attached to the ground, to another structure or to any utilities system on the same premises legally for more than sixty (60) consecutive days.

*Unfit for human habitation* means that conditions exist in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness established by this article.

*Ventilation* means the insufflation and the exsufflation of air by natural means to and from housing.

*Ventilation, mechanical* means ventilation by power-driven devices.

*Ventilation, natural* means ventilation by opening to outer air through windows, sky-lights, doors, louvers or stacks with or without wind-driven devices.

#### **Sec. 5-1.1.2. - Findings; purpose.**

The Town Council finds and declares that there now exists in the Town and may reasonably be expected to exist in the future, housing which is unfit for human habitation because of dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, adequate lighting or sanitary facilities; or because of conditions rendering such housing unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the Town and its area of jurisdiction; and that a public necessity exists to exercise police powers of the Town pursuant to G.S. § Ch. 160A, art. 19, and other applicable laws, as now or hereafter amended, to cause the repair and rehabilitation, closing or demolishing of such housing in the manner provided in this article; and pursuant to the exercise for the police power, the Town Council finds as fact and so declares that the ensuing sections of this article are necessary to the implementation of its purposes hereinabove declared in this section and that, specifically, but without limitation, the minimum standards of fitness for dwellings and dwelling units, as enacted in this article are reasonable and necessary for this community and are all reasonable and necessary criteria for determining whether dwellings and dwelling units in this Town are fit for human habitation.

**State Law reference**— Similar provisions, G.S. § 160A-441.

### **Sec. 5-1.1.3. - Conflicts.**

The provisions of this article shall not be construed to conflict with any other applicable laws, codes or ordinances pertaining to housing, but are supplemental thereto and where the provisions of this article are similar to provisions of other applicable codes or ordinances, the more stringent provisions shall apply.

### **Sec. 5-1.1.4. - Scope.**

- (a) Every building used in whole or in part as a dwelling unit or as two (2) or more dwelling units, or as a rooming house or boardinghouse, shall conform to the requirements of this article irrespective of the primary use of such building, and irrespective of when such building may have been constructed, altered or repaired.
- (b) This article establishes minimum standards for occupancy and does not replace or modify standards otherwise established for construction, replacement or repair of buildings except such as are contrary to the provisions of this article.
- (c) In addition to the exercise of police power authorized in this article with respect to dwellings, the Town shall cause to be repaired, closed or demolished any abandoned structure which the 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 condition 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 pursuant to the same provisions and procedures as are prescribed in this article for the repair, closing or demolition of dwelling found to be unfit for human habitation.

### **Sec. 5-1.1.5. - Alternative remedies.**

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action, or otherwise, or to enforce this article by criminal process or otherwise, and the enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedy or remedies provided in this Code or in other ordinances or laws.

**State Law reference—** Similar provisions, G.S. § 160A-450.

### **Sec. 5-1.1.6. - Right of access.**

- (a) For the purpose of making inspections, the official is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the official free access to such dwelling, dwelling unit, or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination, and survey.
- (b) Every occupant of a dwelling or dwelling unit shall give the owner thereof, or 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 article or with any lawful order issued pursuant to the provisions of this chapter.

**State Law reference—** Power to inspect, G.S. § 160A-412, 160A-424, 160A-448.

**Sec. 5-1.1.7. - Methods of service of complaints and orders.**

Complaints or orders issued by the official shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the official, he shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two successive weeks in a newspaper, printed and published in the Town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

**Sec. 5-1.1.8. - Compliance.**

Every dwelling and dwelling unit used as a human habitation or held out for use as a human habitation shall comply with all of the requirements of this article. No person shall occupy as a human habitation any dwelling or dwelling unit which does not comply with all of the requirements of this article.

**Sec. 5-1.1.9. - Space use.**

The minimum standards for space use are as follows:

- (1) A principal area shall have not less than one hundred fifty (150) square feet.
- (2) A kitchen-dining room combination, if any, shall have not less than one hundred (100) square feet.
- (3) A first bedroom, if any, shall have not less than one hundred (100) square feet.
- (4) A second bedroom, if any, shall have not less than seventy (70) square feet.
- (5) Each habitable room shall have at least seventy (70) square feet.
- (6) At least one hundred fifty (150) square feet of floor space in habitable rooms shall be provided for the first occupant in each dwelling unit; at least one hundred (100) square feet of additional floor space shall be provided for each of the next three (3) occupants; and at least seventy-five (75) square feet of additional floor space shall be provided for each additional occupant over the number of four (4) (children one (1) year of age and under shall not be counted).
- (7) At least seventy (70) square feet of bedroom floor space shall be provided for the first occupant; at least twenty (20) square feet of additional bedroom floor space shall be provided for the second occupant; and at least thirty (30) square feet of additional bedroom floor space shall be provided for each occupant over the number of two (2) (children one (1) year of age and under shall not be counted).
- (8) Those habitable rooms which must be included to meet the foregoing minimum space standards shall be at least seven (7) feet wide in any part with at least one-half of the floor area having a ceiling height of at least seven (7) feet. That portion of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area.
- (9) No basement space shall be used as a habitable room or dwelling unit unless:
  - (a) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness.
  - (b) The total of window area in each room is equal to at least the window area sizes prescribed in the following section for habitable rooms.

- (c) The total of openable window area in each room is equal to at least the room area prescribed in the following section for habitable rooms, except where there is supplied some other device affording adequate ventilation approved by the director of inspections.
- (10) Toilet and bathing facilities shall be structurally enclosed and shall be located so as not to require passage through an openable area.
- (11) Bathroom walls, toilet room walls and bedroom walls shall have no holes or excessive cracks.
- (12) Access shall be provided to all rooms within a dwelling unit without passing through a public space or another dwelling unit.
- (13) Doors shall be provided at all doorways leading to bedrooms, toilet rooms, bathrooms and at all rooms adjoining a public space.
- (14) Each living unit shall have a specific kitchen space, which contains a sink with counter workspace and has hot and cold running water and adequate space for storing cooking utensils.
- (15) Electric, water and sewer must be in working order.

**Sec. 5-1.1.10. - Light and ventilation.**

The minimum standards for light and ventilation are as follows:

- (1) Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area measured between stops for every habitable room shall be eight (8) percent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light obstruction structures are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, they shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) percent of the total floor area of such room.
- (2) Every room in a dwelling unit and means of egress shall be sufficiently illuminated so as to provide safe and satisfactory uses.
- (3) Year-round mechanically ventilating systems may be substituted for windows, as required herein, but must be approved by the code official, in rooms other than rooms used for sleeping purposes.
- (4) All outside windows and doors used for ventilation shall be screened.
- (5) All windows and doors shall be made weather tight.
- (6) Windows and doors shall have no broken glass and shall have adequate operable locks and hardware.
- (7) Openable window area in each toilet room shall be at least two (2) square feet, unless served by mechanical ventilation.
- (8) Natural ventilation of spaces such as attics and enclosed non-basement space shall be provided by openings of sufficient size to overcome dampness and to minimize the effect of conditions conducive to decay and deterioration of the structure, and to prevent excessive heat in attics.

- (9) Utility spaces containing heat-producing, air-conditioning and other equipment shall be ventilated according to manufacturer's requirements.
- (10) Mechanical ventilation shall be of sufficient size to eliminate dampness and odors of the area it is serving.

**Sec. 5-1.1.11. - Exits.**

- (a) Two (2) main exits, each at least thirty (30) inches wide and six (6) feet eight (8) inches high, easily accessible to the occupants of each housing unit, shall be provided, unless a single exit is permitted as an exception by provisions of the state building code, as from time to time amended. All exit doors shall be easily operable.
- (b) Platforms, steps and/or handrails shall be provided to serve exits and maintained in a safe condition.

**Sec. 5-1.1.12. - Plumbing.**

The minimum plumbing standards are as follows:

- (1) The plumbing systems shall be connected to the Town sanitary sewer system, where available; otherwise, the plumbing system shall be connected onto an approved septic tank.
- (2) All plumbing fixtures shall meet the standards of the Town plumbing code and shall be maintained in a state of good repair and in good working order.
- (3) There shall be provided a hot water heater (minimum thirty-gallon capacity) furnishing hot water to each tub or shower, lavatory and kitchen sink.
- (4) Installed water supply inside the building shall be provided for each housing unit.
- (5) Installed water closet, tub or shower, lavatory and sink shall be provided for each dwelling unit.
- (6) Separate toilet facilities shall be provided for each dwelling unit.
- (7) Toilet and bathing facilities shall be structurally protected from the weather.
- (8) All water piping shall be protected from freezing by proper installation in protected space.
- (9) At least one (1) main vent of a minimum diameter of two (2) inches shall be properly installed for each building.
- (10) Sewer and water lines shall be properly supported with no broken or leaking lines.

**Sec. 5.1.1.13. - Heating.**

The minimum heating standards are as follows:

- (1) Reserved.
- (2) Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms and bathrooms in every dwelling unit located therein to a temperature of at least sixty-eight (68) degrees Fahrenheit at a distance three (3) feet above floor level, under ordinary minimum winter conditions.

- (3) All gas-heating and oil-heating equipment installed on the premises shall be of a type approved by Underwriters' Laboratories or by the American Gas Association and shall be installed in accordance with the provisions of the state building code.
- (4) Liquid fuel stored on the premises shall be stored in accordance with the provisions of the National Fire Prevention Association standards.
- (5) Chimneys and fireplaces shall have no loose bricks.
- (6) Flues shall have no holes.
- (7) There shall be no hanging masonry chimneys.
- (8) Thimbles shall be grouted in tight.
- (9) Thimbles shall be installed high enough for stovepipe to rise one-fourth inch per foot minimum.
- (10) Hearths shall be at least twenty (20) inches deep and seven (7) inches beyond each side of the fireplace opening.
- (11) No combustible materials shall be within seven (7) inches beyond each side of the fireplace opening.
- (12) If the fireplace opening is closed because of hazardous conditions, the closure shall be of masonry or other approved material as determined by the code official.
- (13) Any stove shall be within six (6) feet of the thimble serving it.
- (14) Stovepipes and vents shall comply with volume 3 of the state building code.
- (15) No unvented combustible space heaters shall be used.

**State Law reference - G.S. §136-443.1**

**Sec. 5-1.1.14. - Electricity.**

The minimum electrical standards are as follows:

- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles, which shall be connected in such manner as determined by the *National Electric Code*, as adopted by the Town.
- (2) No receptacles, ceiling fixtures or other fixtures shall be broken or hanging loose.
- (3) All toggle switches and fixtures shall be safely operable.
- (4) At least two (2) duplex convenience outlets, as remote from each other as practicable, shall be provided per habitable room.
- (5) At least one (1) light outlet in each bathroom, hall, kitchen and porch, and over exterior steps to the second floor shall be provided.
- (6) There shall be no bare wires, open joints or spliced cables.
- (7) Flexible cords shall not be used as a substitute for the fixed wiring of a structure, nor shall flexible cords be run through holes in walls, ceilings or floors, through doorways, windows, or similar openings, or be attached to building surfaces or concealed behind building walls, ceilings or floors.
- (8) No branch circuits shall be overloaded.



- (9) A minimum of three (3) branch circuits, plus separate circuits for each fixed appliance, shall be provided in each dwelling unit.
- (10) There shall be provided service equipment and a lighting panel of adequate capacity and size (minimum of sixty-ampere capacity) to accommodate the existing or the required number of branch circuits, and the equipment shall be properly grounded.
- (11) Outlets in kitchens and bathrooms shall be ground-fault interrupter device protected.
- (12) All residences shall have a smoke detector on each livable floor. The property owner shall be responsible for installing a fresh battery with change in tenants; the tenant shall be responsible for maintaining the unit and shall not commit any act that shall render the unit inactive.
- (13) All rental dwelling units having a fossil fuel burning heater or appliance or fireplace shall provide a minimum of one operable carbon monoxide detector per unit per level. A carbon monoxide detector is also required for an attached garage. The landlord shall install, replace or repair the carbon monoxide monitor(s) unless the landlord and tenant have a written agreement to the contrary.

**Sec. 5-1.1.15. - Structural requirements.**

The minimum structural standards shall be as follows:

- (1) *Foundation:*
  - a. A foundation shall support the building at all points and shall be free of holes and cracks which admit rodents, water or dampness to the interior of the building or which lessen the capability of the foundation to support the building.
  - b. The foundation shall be on firm, reasonably dry ground, and there shall be no water standing or running under the building.
  - c. Footings shall be sound and have adequate bearing capacity.
  - d. Piers shall be sound.
  - e. No wood stiff knees or other improper piers shall be allowed.
  - f. All structures shall be underpinned or enclosed in an approved manner, such as aluminum, galvanized, asbestos or masonry.
- (2) *Floors:*
  - a. No rotted or termite-damaged sills shall be allowed.
  - b. No broken, overloaded or sagging sills shall be allowed.
  - c. Sills shall be reasonably level.
  - d. Sills shall be properly and sufficiently supported.
  - e. Sills shall clear the ground by at least eighteen (18) inches.
  - f. No rotted or termite-damaged joists shall be allowed.
  - g. No broken or sagging joists shall be allowed.
  - h. Flooring shall be weathertight without holes or cracks which permit air to excessively penetrate rooms.
  - i. Flooring shall be reasonably smooth, not rotten or worn through.

- j. No loose flooring shall be allowed.
- k. Floors shall be reasonably level.

(3) *Walls, exterior:*

- a. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- b. No studs which are rotted or termite-damaged shall be allowed.
- c. No broken or cracked structural members shall be allowed.
- d. No loose siding shall be allowed.
- e. Walls used as partitions shall not lean or buckle.
- f. No deteriorated siding or covering shall be allowed.

(4) *Walls, interior:*

- a. The interior finish shall be free of holes and cracks, which permit air to excessively penetrate rooms.
- b. No loose plaster, loose boards or other loose wall materials shall be allowed.
- c. There shall be no cardboard, newspaper or other highly combustible material allowed as a wall finish.
- d. No studs shall be rotted or termite-damaged.
- e. No broken or cracked studs or other broken or cracked structural members shall be allowed.

(5) *Ceilings:*

- a. No joists shall be rotted, broken or sagging or have improperly supported ends.
- b. There shall be allowed no holes or cracks, which permit air to excessively penetrate rooms.
- c. No loose plaster, loose boards, loose sheetrock or other loose ceiling finish shall be allowed.
- d. There shall be allowed as ceiling finishes no cardboard or other highly combustible material.

(6) *Roofs:*

- a. Rafters shall not be rotted, broken or sagging or have improperly supported ends.
- b. No rafters seriously fire-damaged shall be allowed.
- c. Attics shall be properly vented.
- d. No rotted, loose or sagging sheathing shall be allowed.
- e. No loose roof covering shall be allowed nor shall there be allowed any holes or leaks, which could cause damage to the structure or rooms.
- f. Walls and chimneys shall have proper flashing.

(7) *Stairs and steps:*

- a. Stairs and steps shall be free of holes, grooves and cracks large enough to constitute accident hazards.
  - b. Stairwells and flights of stairs more than four (4) risers or having risers more than thirty (30) inches high shall have rails not less than two (2) feet six (6) inches measured vertically from the nose of the treads to the top of the rail.
  - c. Every rail shall be firmly fastened and maintained in good condition.
  - d. No flight of stairs settled more than one (1) inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.
  - e. No rotting, sagging or deteriorated supports shall be allowed.
- (8) *Porches and appurtenances:*
- a. Every outside and inside porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be kept in sound condition and good repair.
  - b. Protective railings shall be required on any unenclosed structure over three (3) feet from the ground level.
- (9) *Accessory structures:* All accessory buildings and structures, including detached garages, shall be maintained structurally sound and in good repair or shall be raised to grade level and the debris therefrom removed from the premises.
- (10) *Supplied facilities:* Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

**Sec. 5-1.1.16. - Property maintenance.**

The minimum property maintenance standards are as follows:

- (1) *Buildings and structures:*
- a. Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of 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) *Public areas:* Every owner of a structure containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the structure and premises thereof.
- (3) *Rubbish and garbage:* 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.
- (4) *Premises:*
- a. Fences and other minor structures shall be maintained in safe and substantial condition.
  - b. Yards and courts shall be kept clean and free of physical hazards, rubbish, trash and garbage.

- c. No heavy undergrowth or accumulations of plant growth which are noxious or detrimental to health shall be allowed.
  - d. Every premises shall be provided with all-weather vehicular access to and from the premises at all times by an abutting public or private street.
  - e. Walks and steps, constructed so as to provide safety, reasonable durability and economy of maintenance, should be provided for convenient all-weather access to the structure.
  - f. Access to the rear yard from each dwelling unit shall be required. Such access is not, however, acceptable where it is dependent upon passage through another dwelling unit. Each building shall be provided with access to the rear yard. This access for a detached dwelling shall be directly from a street.
  - g. Any nonresidential use of the premises shall be subordinate to its residential use and character.
- (5) *Infestation:*
- a. Premises, buildings and structures shall, by generally accepted methods of extermination, be maintained free of vermination and rodent harborage and infestation.
  - b. Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement or cellar, which might provide an entry for rodents, shall be supplied with screens installed or with such other approved devices as will effectively prevent entrance by rodents.
  - c. Every head-of-household occupant of a structure containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every head-of-household occupant of a dwelling unit in a structure containing more than one (1) dwelling unit shall be responsible for such extermination whenever the dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a structure in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any structure or in the shared or public parts of any structure containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.
- (6) *Cleanliness:* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- (7) *Supplied plumbing fixtures:* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.
- (8) *Care of facilities, equipment and structure:* No occupant shall willfully destroy, deface or impair any of the facilities or equipment of any part of the structure of a dwelling or dwelling unit.

**Sec. 5-1.1.17. – Rooming/Boarding houses.**

All of the provisions of this article, and all of the minimum standards and requirements of this article shall be applicable to rooming houses, and to every person who operates a rooming house,

or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subsections:

- (1) At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house whenever such facilities are shared. All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.
- (2) Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.
- (3) Every room occupied for sleeping purposes by one (1) person shall contain at least seventy (70) square feet of floor space and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (50) square feet of floor space for each occupant thereof.
- (4) Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of the governed area or of the state.
- (5) The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every part of the rooming house. He shall be further responsible for the sanitary maintenance of the entire premises when the entire structure or building is leased or occupied by the operator.
- (6) No person shall operate a rooming house unless he holds a valid rooming house license and keeps same posted on the premises.
- (7) The code official on a quarterly basis shall inspect rooming houses.

**Sec. 5-1.1.18. - Inspections; duty of owner and occupants.**

Every occupant of a dwelling or dwelling unit shall give the owner thereof, or 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 article or with any lawful order issued pursuant to the provisions of this article.

**Sec. 5-1.1.19. - Refusal to permit entry for inspection.**

It shall be unlawful for any owner or person in possession of premises on which housing is located in the Town to refuse, after being presented with a warrant, as issued in accordance with state law, to permit the code official or duly appointed agents to enter upon the premises for the purpose of making examinations as authorized by this article. Violation of this section shall subject the offender to a civil penalty.

**State Law reference—** Similar provisions, G.S. §15-27.2

**Secs. 5-1.1.20 - 5-1.1.25. - Reserved.**

## **DIVISION 2. - ADMINISTRATION AND ENFORCEMENT**

### **Sec. 5-1.2.1. - Method of serving complaints, orders.**

Complaints or orders issued by the code official or designee under this article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public official 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 public official makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the Town at least once no later than the time at which personal service would be required under the provisions of the part. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

**State Law reference—** Similar provisions, G.S. § 160A-445.

### **Sec. 5-1.2.2. - Dwellings in violation; preventive action or proceeding.**

If any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this article or any valid order or decision of the official made pursuant to this article, the official may institute any appropriate action or proceeding 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.

**State Law reference—** Similar provisions, G.S. § 160A-446(g).

### **Sec. 5-1.2.3. - Petition for temporary injunction.**

Any person aggrieved by an order issued by the official may petition the superior court for an injunction restraining the official from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the official pending a final disposition of the case. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition with twenty (20) days, and shall be given preference over other matters on the court 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.

**State Law reference—** Similar provisions, G.S. § 160A-446(f).

### **Sec. 5-1.2.4 - Enforcement by the code official; assistance from Town agencies, departments.**

(a) The code official shall be responsible for the enforcement of this article.

- (b) The code official shall have authority to request the advice and assistance of the Town planning board, the housing authority, the fire department, the health department, and any other public authority may be deemed appropriate, in determining those areas of the Town in which substandard housing may be prevalent, and designate and schedule such areas for comprehensive inspection under this article. This procedure shall be in addition to regular, Town wide inspections under this article.

**Sec. 5-1.2.5. - Powers of Code Official.**

The code official is authorized to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others granted:

- (1) To investigate the dwelling conditions in the Town in order to determine which dwellings therein are unfit for human habitation;
- (2) To administer oaths; affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of officials, agents and employees necessary to carry out the purposes of the ordinances;
- (5) To delegate any of the functions and powers under the ordinance to other officials and other agents.

**State Law reference—** Similar provisions, G.S. § 160A-448.

**Sec. 5-1.2.6. - Issue of complaint; hearing; determination of unfit dwelling; abatement procedure.**

- (a) Whenever a petition is filed with the code official by a public authority or by at least five (5) residents of the Town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the official that any dwelling or dwelling unit is unfit for human habitation, the code official shall, if the preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the official, at a place within the county, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the official.
- (b) If after such notice and hearing the official determines that the dwelling under consideration is unfit for human habitation, the code official shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owners an order as follows:
- (1) If the repair, alteration or improvement of the dwelling can be made at a cost not to exceed fifty (50) percent of the value of the dwelling, requiring the owner, within the time

specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation;

- (2) If the repair, alteration or improvement of the dwelling cannot be made at a cost not to exceed (50) percent of the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish such dwelling.
- (3) If a house has been closed and/or boarded, for a period of one year or longer, after being closed following proceedings under the substandard housing regulations and Town Council determines that the owner has abandoned the intent and purpose to render it fit for human habitation and that continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the community in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would cause or contribute to blight and deterioration of property values in the area, then in such circumstances, the Town Council may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth 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 (50) percent of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 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 (50) percent of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.
- (c) The official is authorized to fix the reasonable value of any housing and to estimate the cost of repairs, alterations or improvements for the purposes of this section.
- (d) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the official may cause such to be repaired, altered or improved or to be vacated and closed, and may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.
- (e) If the owner fails to comply with an order to remove or demolish the dwelling, the official may cause such dwelling to be removed or demolished; provided, however, that the powers of the official set forth in subsection (d) and this subsection shall not be exercised until the Town Council has, by ordinance, ordered the official to proceed to effectuate the purpose of this article with respect to the particular property or properties, which the official has found to be unfit for human habitation and which shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. Such ordinance shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.
- (f) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the official, shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. § Ch. 160A, art. 10. If the dwelling is removed or demolished by the official, he shall sell the materials of such dwelling, any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the



proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the official, shall be secured in such manner as may be 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.

- (g) If any occupant fails to comply with an order to vacate a dwelling, the public official may file a civil action in the name of the Town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the public official produces a certified copy of an ordinance adopted by the governing body pursuant to subdivision (e), authorizing the official to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the governing body has ordered the public official to proceed to exercise duties under paragraphs (d) and (e) of this section to vacate and close or remove and demolish the dwelling.
- (h) Any violation of this section shall additionally subject the offender to a civil penalty to be recovered by the Town pursuant to section 1-7.

**State Law reference—** Abatement procedures, G.S. § 160A-443.

#### **5-1.2.7 Appeals from orders of Code Official.**

- (a) An appeal from any decision or order of the code official may be taken by any person who is the subject of the decision or order. Any appeal from the official shall be taken within ten days from the rendering of the decision or notice of the order, and shall be taken by filing a notice of appeal with the planning department which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the official shall forthwith transmit to the board of adjustment all papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the code official refusing to allow the person aggrieved thereby to do any act, the decision shall remain in force until modified or reversed. When any appeal is from a decision of the code official requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the board of adjustment, unless the official certifies to the board of adjustment, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of the requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the code official, by the board of adjustment, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and the provisions of this article.

- (b) The board of adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the official, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the official. The board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

**State Law reference—** Similar provisions, G.S. § 160A-446(c), (d), (e).

**Sec. 5-1.2.8. - Petition to superior court.**

Any person aggrieved by an order issued by the official or a decision rendered by the board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the official pending a final disposition of the cause.

**State Law reference—** Similar provisions, G.S. § 160A-446(f).

**Sec. 5-1.2.9. - Unauthorized removal of posted complaint, notice or order.**

No person without the written consent of the Town manager or appointed agent shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this article. Any person violating or failing to comply with the provisions of this section shall be guilty of a misdemeanor.

**Sec. 5-1.2.10. - Renting unfit dwelling after notice.**

When the official finds that a dwelling is unfit for human habitation within the meaning of this article and has notified the owner to such effect and the time limit set by the official for the repair, alteration, improvement, removal, demolition or vacating and closing the same has expired, no person shall receive rentals or offer for rent or occupancy such dwelling or dwelling unit as a human habitation until such time as the order of the official is obeyed or reversed by a court of competent jurisdiction in accordance with the law. Each day such offense continues shall be deemed separate offense. Any violation of this section shall subject the offender to a civil penalty.

**Sec. 5-1.2.11. - Certificate of occupancy.**

- (a) The Town shall not provide, nor permit another to provide, either public or private utility services such as water, gas, electricity, sewer, etc., to any dwelling unit becoming vacant until such dwelling unit has been inspected, brought into compliance with this article and a valid certificate of occupancy, as required, has been issued. This requirement shall not preclude the temporary use of such utility services for alteration. The building official shall be responsible for making the determination as to when such temporary services may be necessary.
- (b) No certificate of occupancy may be issued for any single-family or multi-family residential building on which construction is begun on or after January 1, 1978, until it has been certified

as being in compliance by the energy and insulation official with the minimum insulation standards for residential construction, as prescribed in the state building code.

For structures built prior to 1978 and no insulation exists, the attic shall be insulated to an R-30 value. If insulation exists in a structure built before 1978, it must have an R-19 value.

- (a) It shall be unlawful for any person to occupy, or allow another to occupy, or offer for rent, a dwelling or dwelling unit until a valid certificate of occupancy has been issued.

**Section 5-1.2.12 Changes in work after permit issued.**

After a permit has been issued, no changes or deviations from the terms of the application and permit or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter shall be made until specific written approval of such changes or deviations has been obtained from the appropriate official.

**Sec. 5-1.2.13. - Violations; penalty.**

It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the official duly made and served as provided in this article, within the time specified in the order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to this division, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement, or its vacation and closing, or removal or demolition. Each day that such occupancy continues after the prescribed time shall constitute a separate and distinct offense.

**Secs. 5-1.2.14 – 5-1.2.20. - Reserved.**

**ARTICLE 2. – MINIMUM STANDARDS FOR NON-RESIDENTIAL BUILDINGS**

**Sec. 5-2.1. - Exercise of police powers; authority.**

The Town Council hereby finds and declares that there exists within the Town limits and its environs unsafe structures which are 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. In order to alleviate these unsafe and dangerous conditions for the health, safety, and welfare of the citizens and its environs, a public necessity exists to exercise the police powers conferred upon the Town for the repair, closing or demolition of such structures.

**Sec. 5-2.2. - Definition of abandoned and/or unsafe structure.**

An abandoned and/or unsafe structure is defined as a nonresidential building or structure which has not been occupied by authorized persons for at least six (6) months and which persistently or repeatedly becomes unprotected or unsecured, or which has been occupied by unauthorized persons, or which presents a danger of structural collapse, fire, disease, or a threat to children.

**Sec. 5-2.3. - Procedure for enforcement.**

- (a) *Duty of code official.* It shall be the duty of the code official to examine non-residential structures located in the Town and its environs where conditions described in section 4-

101 exist for the purpose of locating and taking action with respect to such structures as appear to be a health or safety hazard. In exercising this power, department members shall have the right to enter on any premises within the jurisdiction of the department at all reasonable hours for purposes of inspection or other enforcement action, upon presentation of proper credentials.

(b) *Notice of complaint.* If the inspection discloses health or safety hazards as described in this article, the official shall affix a notice of unsafe character in a conspicuous place on the exterior wall of the structure giving notice of its unsafe or dangerous conditions and cause to be served upon the owner of and parties in interest to the structure a complaint stating the charges and containing a notice. If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. §160A-426 shall fail to take prompt corrective measures, the official shall give him written notice, by certified or registered mail to the last known address or by personal service, that the building or structure is in a condition that appears to meet one or more of the following conditions:

- (1) Constitutes a fire and safety hazard;
- (2) Is dangerous to life, health, or other property;
- (3) Is likely to cause or contribute to blight, disease, vagrancy or danger to children; or
- (4) Has a tendency to attract person/s intent on criminal activities or other activities which would constitute a public nuisance.

A hearing will be held before the official at a designated place therein fixed, not less than ten (10) nor more than thirty (30) days after serving of said complaint. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy there of is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the Town at least once, not later than one week prior to the hearing.

No oversight or dereliction of duty on the part of any official or employee of the Town shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code adopted in this chapter.

- (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 at the place and time fixed in the complaint. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the official.
- (d) *Procedure after hearing.* After such hearing, if the official finds that a structure constitutes a health or safety hazard, the code official shall state in writing the findings of fact in support of such determination. In such case, the official shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, close, vacate or demolish the structure as necessary to correct the health or safety hazard within a specified period of time.

#### **Sec. 5-2.4. - Appeal; finality of order if not appealed.**

Any owner who has received an order under G.S. § 160A-429 may appeal from the order to the Board of Adjustment by giving notice of appeal in writing to the official and to the Town clerk within ten days following issuance of the order. In the absence of an appeal, the order of the official shall be final. The Board of Adjustment shall hear and render a decision in an appeal

within a reasonable time. The Board of Adjustment may affirm, modify and affirm, or revoke the order

**Sec. 5-2.5. - Securing, closing and demolition by the Town.**

If the owner fails to comply with an order of the official to repair, secure and close, vacate or demolish, the official shall take one (1) or more of the following actions as necessary:

- (a) Secure the issuance of a warrant charging such owner with violation of this article;
- (b) Secure and close said structure;
- (c) Cause such structure to be repaired, altered or improved; or
- (d) Cause such structure to be demolished.

**State Law reference—** Similar provisions, G.S. § 15-27.2

**Sec. 5-2.6. - Actions by Town Council.**

- (a) The powers of the official as set forth in section 4-103(c) and (d) shall not be exercised until the Town Council has by ordinance ordered the official to proceed to effectuate the purpose of this article with respect to the particular property or properties, which the official has found to be a health or safety hazard and which shall be described in the ordinance. Such ordinance shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.
- (b) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the official, shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. § Ch. 160A, Art. 10. If the structure is removed or demolished by the official, he shall sell the materials of such structure, any personal property, fixtures or appurtenances found in or attached to the structure, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the official, shall be secured in such manner as may be 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.

**Sec. 5-2.7. - Failure to comply with order.**

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. §160A-429 from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he shall be guilty of a Class 1 misdemeanor, additionally subject the offender to civil penalty to be recover by the Town pursuant article G.S. § 14-4.; Every day such person shall willfully fail or refuse to comply with any final order or direction of the code official or Town Council made by virtue and in pursuance of this article shall constitute a separate and distinct offense.

**Sec. 5-2.8. - Lien on property.**

The amount of the cost of such repair, alterations, improvements, vacating and closing, or demolition ordered by the Town Council or by the official 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 assessments pursuant to G.S. § Ch. 160A, Art. 10.

**Sec. 5-2.9. - Other unlawful actions.**

- (a) No person shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of section 4-103 of this article.
- (b) It shall be unlawful for the owner of any building upon whom a notice, complaint or order has been served, to sell, transfer, mortgage, lease or otherwise dispose of said building unless one of the following actions have been taken:
  - (1) Compliance with the provisions of the notice, complaint or order; or
  - (2) Furnish a copy of any notice, complaint or order to the transferee, lessee, or mortgagee, and give written notice to the official of said action.

**Sec. 5-2.10. - Alternative remedies.**

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisance and to cause their abatement by summary action or otherwise, or the enforcement of any other remedy or remedies provided or in other ordinances of laws.

**Sec. 5-2.11. - Conflicts with other provisions.**

In the event any provision, standard or requirement of this article is found to be in conflict with a provision of any other ordinance or code of the Town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Town and environs shall prevail.

**Sec. 5-2.12. - Unsafe buildings condemned.**

An official may declare a nonresidential building or structure within a community development target area designated by the Town Council, or within a development zone authorized by G.S. § 105-129.3.A or G.S. §160A-503(10) to be unsafe if it meets both of the following conditions:

- (1) It appears to the official to be vacant or abandoned; and
- (2) It appears to the official to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

**Sec. 5-2.13. - Appeals in general.**

Unless otherwise provided by law, appeals from any order, decision or determination by a member of a local inspection department pertaining to the state building code or other state building laws shall be taken to the commissioner of insurance or appointed designee or other official specified in G.S. § 143-139, by filing a written notice with him and with the inspection department within a period of ten days after the order, decision or determination. Further appeals may be taken to the state building code council or the courts as provided by law.

**Sec. 5-2.14. - Changes in work after permit issued.**

After a permit has been issued, no changes or deviations from the terms of the application and permit or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter shall be made until specific written approval of such changes or deviations has been obtained from the appropriate official.

**Sec. 5-2.15. - Report of owner's failure to comply with Code Official's order.**

If the owner does not appeal from the final order or direction of the code official requiring that the building or structure be demolished and removed or the taking of such other steps as may be required to abate the nuisance and remove the hazards, and fails or refuses to comply with such order and direction, it shall be the duty of the official to file a written report thereof with the Town manager, who shall cause such report to be placed on the agenda for action by the Town Council at its next ensuing regular meeting or at some subsequent meeting to which the Town Council may continue the same. The code official shall mail a copy of such report by certified or registered mail to the owners last known address or have a copy of such report delivered to such owner. Such report shall specify the date of the meeting of the Town Council for which the matter will be docketed for action.

### **Reserved 5-2.16 - 5-2.20**

## **ARTICLE 3. – ABANDONED MANUFACTURED HOMES**

### **Sec. 5-3.1 Intent**

- (a) The intent of this article is to protect the public health and environment through the deconstruction of abandoned manufactured homes to reduce blight and unattractive nuisances.
- (b) It is a policy of the town to promote the removal of reusable or recyclable materials to reduce the impact of such solid wastes and production of said materials on the environment.

### **Sec. 5-3.2 Abandoned, Nuisance and Junked Mobile Homes Unlawful**

- (a) It shall be unlawful for the registered owner or person entitled to possession of a manufactured home and for the owner, lessee or occupant of the real property upon which the manufactured home is located to leave, allow, or suffer the manufactured home to remain on the property after it has been declared an abandoned manufactured home or a public nuisance.
- (b) A manufactured home shall be deemed to be an abandoned manufactured home for the purposes of this article in the following circumstances: any manufactured home that is either vacant or in need of extensive repair; and an unreasonable danger to public health, safety, welfare or the environment.
- (c) A manufactured home shall be considered abandoned when it has not been occupied for at least 120 days **and** meets any of the following criteria:
  - (1) Provides a location for loitering, vagrancy, unauthorized entry or other criminal activity;
  - (2) Has been boarded up for at least 30 days;
  - (3) Has taxes in arrears for a period of time exceeding 365 days;
  - (4) Has all utilities disconnected or not in use

### **Sec. 5-3.3 Notice Requirements for Abandoned Manufactured Homes**

The Town shall notify the responsible party and the land owner for each identified abandoned manufactured home in writing and shall be sent to the person in the form of certified mail.

#### **Sec. 5-3.4 Removal of Abandoned Manufactured Homes**

- (a) The owner or responsible party shall be given 60 days from receipt of the written notice to dispose of the abandoned manufactured home in a legal manner.
- (b) If the owner or responsible party fails to comply with this order, the town shall take any action it deems reasonably necessary to dispose of the abandoned manufactured home, including entering the property where the abandoned manufactured home is located and arranging to have the home deconstructed and disposed of in a manner consistent with the Town's garbage collection and disposal provisions.
- (c) The property owner does not remove said abandoned manufactured home a lien will be placed against the real property, if not paid within 30 days and shall be collected as unpaid taxes.

#### **Sec. 5-3.5 Protection Against Criminal or Civil Liability**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked manufactured home, for disposing of such manufactured home as provided in this article.

#### **Sec. 5-3.6 Appeals**

- (a) Within the 60-day period mentioned in Sec. 5.04, the owner of the property where the nuisance exists may appeal the findings of the enforcement official to the Board of Adjustment by giving written notice of appeal to the enforcement official, the appeal to stay the abatement of the nuisances by the enforcement official until a final determination by the Board of Adjustment. In the event no appeal is taken, the enforcement official may proceed to abate the nuisance.
- (b) The Board of Adjustment, in the event an appeal is taken as provided in division (a) above, may, after hearing all interested persons and reviewing the findings of the enforcement official, reverse the finding made pursuant to Sec. 5.04, but if the Board of Adjustment shall determine that the findings of the enforcement official pursuant to Sec. 6.04 are correct and proper, it shall declare the condition existing on the property to be a danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the Town and public nuisance, and direct the enforcement official to cause the conditions to be abated.