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CHAPTER 150: BUILDING REGULATIONS

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GENERAL PROVISIONS

§ 150.001 APPLICABILITY OF CHAPTER.

(A) The provisions of this chapter and of the regulatory codes adopted in this chapter shall apply to the following:

(1) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every building or structure or any appurtenances connected or attached to such building or structure;

(2) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems and all fixtures and appurtenances thereof;

(3) The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel-burning equipment and appurtenances thereof;

(4) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof.

(B) The adoption of this chapter and the codes adopted by reference in this chapter shall constitute a resolution within the meaning of G.S. § 143-138(e) making the regulatory codes herein adopted applicable to dwellings and outbuildings used in connection therewith and to apartment buildings used exclusively as the residence of not more than two families.

(` 88 Code, § 4-1)

§ 150.002 FIRE DISTRICT ESTABLISHED.

The principal fire district of the city shall be as follows: beginning at the intersection on North Randolph Street and Green Street in a westerly direction to the corner of North Lee Street and Green Street; thence north along Lee Street to the intersection of Highway 220 and North Lee Street; thence in a southwesterly direction along Highway 220 to a point 400 feet past the intersection of Broad Avenue and Highway 220; thence in a southeasterly direction parallel with Broad Avenue to a point 400 feet south of Broad Avenue and 200 feet west of South Hancock Street; thence south running parallel with South Hancock Street to the intersection of South Hancock Street and northbound lane of U.S. Highway 220; thence in a southeast direction to a point 200 feet southeast of South Hancock Street, thence in a northerly direction to a point within 400 feet south of Broad Avenue; thence in a southeast direction parallel with Broad Avenue to a point on Pickett Street 400 feet from Broad Avenue; thence northeasterly to a point 200 feet from Broad Avenue on Pickett Street; thence running parallel with Broad Avenue to a point

200 feet from Broad Avenue near Thomas Street being 1,250 feet from Pickett Street; thence northeasterly to Broad Avenue; thence southeast to the intersection of Broad Avenue and Thomas Street; thence, south to a point on Thomas Street 100 feet from Broad Avenue; thence southeasterly to a point 300 feet from Thomas Street and 100 feet from Broad Avenue; thence south 100 feet to a point 300 feet from Thomas Street; thence parallel with Broad Avenue to a point 275 feet from Broad Avenue on Long Drive; thence south along Long Drive to a point 700 feet from Broad Avenue; thence southeasterly parallel with Broad Avenue to a point 220 feet from Biltmore Drive and 700 feet from Broad Avenue; thence northeasterly to a point 250 feet from Broad Avenue and 220 feet from Biltmore Drive; thence southeasterly to a branch (name unknown) approximately 600 feet from Biltmore Drive; thence south along Branch (name unknown) 900 feet from Broad Avenue; thence southeast direction 750 feet to Lady Mary Lane approximately to a point 900 feet from Broad Avenue; thence northeasterly direction to a point on Lady Mary Lane 500 feet from Broad Avenue; thence southeasterly 200 feet to a point 500 feet from Broad Avenue; thence northeast to the centerline of Broad Avenue; thence in a northwesterly direction to the end of Avalon Drive; thence northerly to a point 100 feet east of Richmond Memorial Drive and Aldrin Drive; thence northerly to the end of Mallard Lane; thence northwest to a point on the north prong of Falling Creek 400 feet east of Long Drive; thence west along Falling Creek to a point 400 feet west of Long Drive; thence in a southerly direction parallel with Long Drive to a point on Rockingham Road 400 feet from Long Drive; thence southeast along Rockingham to a point 150 feet southeast of the intersection of Rockingham Road and Long Drive; thence south parallel to Long Drive to a point 520 feet from Rockingham Road and 150 feet from Long Drive; thence easterly direction to a point 100 feet south of the intersection of Laurel Avenue and Long Drive; thence northeast 100 feet to the intersection of Laurel Avenue and Long Drive; thence northwest to the intersection of Laurel Avenue and Wild Cherry Avenue; thence south and west along Wild Cherry Avenue to the intersection of Walnut Lane; thence south to Broad Avenue on Walnut Lane; thence west along Broad Avenue to a point 150 feet northwest of John Street; thence north parallel to John Street to a

point 400 feet from Broad Avenue and 150 feet from John Street; thence northwest running parallel with Broad Avenue to a point 150 feet from Pickett Street; thence southwest to a point 200 feet from Broad Avenue and 150 feet from Pickett Street; thence northwest in a straight line to a point 300 feet east of the intersection of Leak and Lawrence Street on Leak Street; thence in a northerly direction to a point 250 feet from the intersection of South Randolph Street and East Franklin Street on Franklin Street; thence east to the intersection of South Randolph Street and East Franklin Street; thence north along Randolph Street to the beginning point at Green Street and Randolph Street.

(`88 Code, § 4-2)

Statutory reference:

Authority of city to establish fire limits, see G.S. § 160A-435

§ 150.003 RESTRICTIONS ON CONSTRUCTION AND THE LIKE OF FRAME BUILDINGS.

Within the fire limits of the city, as established and defined by § 150.002, no frame or wooden building or structure or addition thereto shall hereafter be erected, altered, repaired or moved, either into the limits or from one place to another within the limits, except upon a permit from the Building Inspector approved by the Commissioner of Insurance.

(`88 Code, § 4-3)

Statutory reference:

Similar provisions, see G.S. § 160A-436

REGULATORY CODES

§ 150.015 BUILDING CODE ADOPTED.

The most current edition of the North Carolina State Building Code, Volume 1, General Construction, as adopted by the North Carolina Building Code Council and as amended, is adopted by reference as fully as though set forth herein as the building code of the city to the extent such code is applicable for safe and stable design, methods of construction, minimum standards and use of materials in buildings or

structures hereafter erected, enlarged, altered, repaired or otherwise constructed or reconstructed.

(`88 Code, § 4-16)

§ 150.016 PLUMBING CODE ADOPTED.

The most current edition of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing) as adopted and published by the North Carolina Building Code Council and as amended, is adopted by reference as fully as though set forth herein as the plumbing code for the city to the extent such code is applicable for safe and stable design, methods of installing, minimum standards and use of materials in buildings or structures hereafter erected, enlarged, altered, repaired or otherwise constructed or reconstructed.

(`88 Code, § 4-17)

§ 150.017 HEATING CODE ADOPTED.

The most current edition of the North Carolina Heating, Air Conditioning, Refrigeration and Ventilation Code (North Carolina State Building Code, Volume III, Heating) as adopted and published by the North Carolina Building Code Council and as amended, is adopted by reference as fully as though set forth herein as the heating code for the city to the extent the codes are applicable for safe and stable design, methods of installing, minimum standards and use of materials in buildings or structures hereafter erected, enlarged, repaired or otherwise constructed or reconstructed.

(`88 Code, § 4-18)

§ 150.018 ELECTRICAL CODE ADOPTED.

The most current edition of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical), adopting by reference the most current edition of the National Electrical Code of the National Fire Protection Association as adopted by the North Carolina Building Code Council and as amended, is adopted by reference as fully as though set forth herein as the electrical code for the city to the extent such code is applicable for safe and stable

design, methods of installing, minimum standards and use of materials in buildings or structures hereafter erected, enlarged, altered, repaired or otherwise constructed or reconstructed.

(`88 Code, § 4-19)

§ 150.019 UNIFORM RESIDENTIAL BUILDING CODE ADOPTED.

The most current edition of the North Carolina Uniform Residential Building Code, as adopted by the North Carolina Building Inspectors Association and as published by the North Carolina Building Code Council is adopted by reference as fully as though set forth herein as the residential building code for one- and two-family residential buildings in the city to the extent such code is applicable for safe and stable design, methods of construction, minimum standards and use of materials in buildings or structures hereafter erected, enlarged, altered, repaired or otherwise constructed or reconstructed.

(`88 Code, § 4-20)

§ 150.020 HOUSING CODE ADOPTED.

The North Carolina State Model Housing Code, most current edition, is adopted by reference as fully as though set forth herein as the housing code of the city to the extent such code is applicable for safe and stable design, methods of construction, minimum standards and use of materials in buildings or structures hereafter erected, enlarged, altered, repaired or otherwise constructed or reconstructed.

(`88 Code, § 4-21)

§ 150.021 AMENDMENTS TO CODES.

Amendments to the regulatory codes adopted by reference in this subchapter which are from time to time adopted and published by the agencies or organizations referred to herein shall be effective in the city at the time such amendments are filed with the City Building Inspector.

(`88 Code, § 4-22)

§ 150.022 COPIES OF CODES FILLED.

An official copy of each regulatory code adopted in this subchapter and official copies of all amendments thereto shall be kept on file in the office of the Building Inspector. The copies shall be the official copies of the codes and the amendments.

(`88 Code, § 4-23)

INSPECTIONS AND PERMITS

§ 150.035 PERIODIC INSPECTION OF BUILDINGS.

The Building Inspector shall make periodic inspections of all buildings in the city and ascertain if the provisions of this chapter are complied with, and the Inspector alone or with the Insurance Commissioner or his or her deputy shall at all times have the right to enter any dwelling, store or other building and premises to inspect same without molestation from anyone. It shall be the duty of the Building Inspector to notify the occupant or owner of all premises of any defects found in this general inspection and see that they are properly corrected.

(`88 Code, § 4-41)

Statutory reference:

Authority of inspectors to make periodic inspections, see G.S. § 160A-424

§ 150.036 DEFECTS IN BUILDING.

Whenever the Building Inspector finds any defects in any new building or finds that the building is not being constructed or has not been constructed in accordance with the provisions of this chapter or that an old building because of its condition is dangerous or likely to cause a fire, it shall be his or her duty to notify the owner of the building of the defects or the failure to comply with this chapter, and the owner or builder shall immediately remedy the defect and make the building comply with the law. The owner or

builder may appeal from a decision of the Building Inspector to the Insurance Commissioner.

(G.S. § 160A-434) ('88 Code, § 4-42)

Statutory reference:

Defects in buildings to be corrected, see G.S. § 160A-425

§ 150.037 FAILURE TO COMPLY WITH ORDER.

If the owner or builder erecting any new building, upon notice from the Building Inspector, shall fail or refuse to comply with the terms of the notice by correcting the defects pointed out in such notice so as to make such building comply with the building code, he or she shall be guilty of a misdemeanor. Every day during which any defect in the building is wilfully allowed to remain after notice from the Inspector shall constitute a separate and distinct offense.

('88 Code, § 4-43)

Statutory reference:

Similar provisions, see G.S. § 160A-431

§ 150.038 BUILDING PERMITS.

(A) Before commencement of any work for which a permit is required by G.S. § 160A-417, the owner of the property shall apply to the Building Inspector for a permit to build. This permit shall be given in writing and shall contain a provision that the building shall be constructed according to the requirements of the building law. As the building progresses, the Inspector shall make as many inspections as may be necessary to satisfy him or her that the building is being constructed according to the provisions of this chapter. As soon as the building is completed, the owner shall notify the Inspector, who shall proceed at once to inspect the building and determine whether or not the flues and the building are properly constructed in accordance with the building law.

(B) If the building meets the requirements of the building law, the Inspector shall then issue to the contractor or owner of the building a certificate, which shall state that he or she has complied with the

requirements of the building law as to that particular building, giving description and locality and street number, if numbered. The Inspector shall keep his or her record so that it will show readily by reference all such buildings as are approved. The Inspector shall report to the Insurance Commissioner every person neglecting to secure such permit and certificate and also bring the matter before the City Manager for his or her attention and action.

('88 Code, § 4-44)

Statutory reference:

Building permits, see G.S. § 160A-417

§ 150.039 BUILDING PERMIT MORATORIUM WHILE A PETITION FOR CHANGE OF ZONING IS PENDING.

No building permit shall be issued for construction of a building on property for which a petition for change of zoning is pending. This moratorium shall be in effect from the time when such a petition is received by the city until the petition is either denied or approved by the City Council.

('88 Code, § 4-45)

§ 150.040 PLAN OF CONSTRUCTION AND COPY OF CONTRACT.

A sketch or plan of all construction and a copy of the construction contract shall be made available to the Building Inspector.

('88 Code, § 4-46)

§ 150.041 TIME LIMIT ON BUILDING PERMIT.

A time limit on all building permits shall be fixed at six months. If the building is not started within that time, a new permit shall be obtained.

('88 Code, § 4-47)

Statutory reference:

Time limitation on validity of permits, see G.S. § 160A-418

§ 150.042 SCHEDULE OF FEES FOR PERMITS.

(A) The rate schedule of fees to be paid to the city for building permits for construction within the city shall be set from time to time by the Council and is on file in the office of the City Clerk.

(B) Building permit fees shall be paid by all firms, individuals and organizations for construction within the city and shall be the responsibility of the owner or owners of the property upon which the construction is to take place; except churches and duly chartered, registered and certified charitable and benevolent organizations shall be exempt from the payment of such building permit fees. Social clubs, civic clubs and fraternal organizations are not exempted from the payment of building permit fees under this section.

(`88 Code, § 4-48)

***CONDEMNATION, REPAIR AND
DEMOLITION OF UNSAFE BUILDINGS***

§ 150.080 DUTY OF OWNER; PROCEDURE UPON FAILURE TO COMPLY.

Whenever any building has been condemned by the Building Inspector and is uninhabited or abandoned for use and the existence of the building in a dilapidated state of disrepair or other substandard condition is found and determined by the Building Inspector, or, upon appeal from or report by the Building Inspector as provided in this subchapter, by the City Council, to be dangerous to life, health or other property or is in such condition or is located in such proximity to other buildings as to constitute a fire or safety hazard or a public nuisance, the owner of the building shall be required to demolish and remove the same and remedy such conditions under the regulations and procedures provided in this chapter. If the owner fails or refuses to do so within the time directed by the Building Inspector or by the City Council, as hereinafter provided, the City Council may, in its judgment, cause the building to be demolished and removed or such other steps to be taken as it may find to be necessary to suppress and abate the

nuisance and remove the fire or safety hazard and the danger to life, health or other property found to exist. The City Council may specially assess the cost and expense of doing the work against the lot or parcel of land on which the building is located.

(`88 Code, § 4-91)

§ 150.081 NOTICE AND HEARING.

(A) Before any building may be ordered to be demolished and removed as provided in § 150.080, the Building Inspector shall notify the owner thereof, in writing, by certified or registered mail to the last known address of the owner, by personal service of the notice by the Building Inspector or his or her assistant, or by posting notice as hereinafter provided, that the building is in such condition as appears to constitute a fire or safety hazard or to be dangerous to life, health or other property or to be a public nuisance, and that a hearing will be held before the Building Inspector at a designated place in the city hall at a time not less than ten days after the date of the written notice, at which time and place the owner shall be entitled to be heard in person or by counsel upon all legal or factual questions relating to the matter and shall be entitled to offer such evidence as he or she may desire which is relevant or material to the questions sought to be determined or the remedies sought to be effected.

(B) If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice herein referred to shall be considered properly and adequately served if a copy thereof is posted on the outside of the building in question at least ten days prior to the date fixed for the hearing and a notice of the hearing is published one time in a newspaper published in the city at least one week prior to the date fixed for the hearing. The notice shall state the address or location of the building and the time, place and purpose of the hearing.

(`88 Code, § 4-92)

Statutory reference:

Similar provisions, see G.S. § 160A-428

§ 150.082 ORDER TO TAKE CORRECTIVE ACTION.

If upon such hearing the Building Inspector shall find that the building in question is uninhabited or abandoned for use and is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health or other property or is a public nuisance, he or she shall make an order in writing, directed to the owner of the building, requiring the owner to remedy the conditions so found to exist by demolishing and removing the building or taking such other steps as may be necessary to abate the nuisance and remove the hazards within such period, not less than 60 days, as the Building Inspector may prescribe; provided where the Inspector finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(G.S. § 160A-429) (`88 Code, § 4-93)

§ 150.083 APPEAL FROM INSPECTOR'S ORDER; ORDER TO BE FINAL IF NOT APPEALED.

(A) The owner of any building ordered by the Building Inspector to be demolished and removed or who is directed by the Building Inspector to take any other steps to abate a nuisance or remove hazards found by the Building Inspector to exist shall have the right of appeal from the orders to the City Council; provided, that the owner gives notice of appeal to the Building Inspector at the time of the hearing at which the order is made or, within ten days after the order is made, files with the Building Inspector a written notice of such appeal. The notice of appeal shall state the grounds therefor.

(B) Unless an appeal is taken within the time and in the manner prescribed in this section, the action of the Building Inspector shall be deemed final, subject only to such action as the City Council may take as elsewhere provided in this subchapter. Where an appeal has been properly taken and notice thereof given in accordance with the provisions of this section, it shall be the duty of the Building Inspector to report the appeal to the Mayor who shall cause the matter to

be placed on the agenda for action by the City Council at its next ensuing regular meeting. The City Council shall have the right to continue the hearing of the appeal from time to time in its discretion.

(`88 Code, § 4-94)

Statutory reference:

Appeals on order to take corrective action, see G.S. § 160A-430

Appeals generally, see G.S. § 160A-434

§ 150.084 INSPECTOR TO REPORT OWNER'S NONCOMPLIANCE.

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

(`88 Code, § 4-95)

§ 150.085 HEARING OF APPEALS; ASSESSMENT OF COSTS.

In all cases referred to in this subchapter which reach the City Council for action, either upon appeal of the owner from the ruling of the Building Inspector or upon report of the Building Inspector that the owner fails or refuses to comply with his or her order or direction, the City Council shall hear the matter. If it finds and determines that the building in question is uninhabited or abandoned for use and is in such a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health or other property or is a public nuisance,

and that the owner of the building has failed or refused to abate the nuisance and has failed or refused to have the building demolished and removed or has failed or refused to take such other steps as may be necessary to abate the nuisance and remove the hazards found to exist, it may cause the demolition and removal of such building to be done or effect such other remedies as may be necessary to abate the nuisance and remove the hazards and specially assess the cost of the work against the lot or parcel of land on which the building was situated. The assessment shall constitute a specific lien upon the lot or parcel of land and may be enforced by an action instituted in the name of the city in the nature of an action to foreclose a mortgage as provided by state law in the case of ad valorem taxes and local improvement assessments.

(`88 Code, § 4-96)

§ 150.086 NOTICE OF APPEAL HEARING REQUIRED.

In cases in which the Building Inspector has been unable to give to the owner annual notice of hearing in the manner provided in § 150.081 and has given such notice by posting and publishing the same as authorized in § 150.081 and the owner has failed or refused to comply with the order or direction of the Building Inspector to demolish and remove the building or take such other remedial action as will remove the hazards and such case is referred to the City Council for action, the City Council shall before taking such action, cause to be posted on the outside of the building in question at least ten days prior to the date fixed for the hearing and published one time in a newspaper published in the city at least one week prior to the date fixed for such hearing, a written notice stating the address or location of the building involved and the time, place and purpose of the hearing and such other information as the City Council may deem advisable.

(`88 Code, § 4-97)

§ 150.087 PRESUMPTION OF DANGER TO PUBLIC.

In all cases in which the City Council causes the demolition and removal of any building to be carried

out or directs such other remedial steps to be taken as may be necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire and safety hazard and danger to life, health or other property, created and maintained by the continued presence of the building in such condition as is found to exist, constitute a clear and present danger amounting to a situation of emergency involving the public health, safety and general welfare which required entry upon private property for the summary abatement and removal of such danger in the public interest.

(`88 Code, § 4-98)

§ 150.088 WILLFUL FAILURE OR REFUSAL TO COMPLY WITH ORDER.

It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the Building Inspector or City Council made by virtue and in pursuance of this subchapter.

(`88 Code, § 4-99) Penalty, see § 10.99

Statutory reference:

Similar provisions, see G.S. § 160A-431

§ 150.089 PROVISIONS ARE SUPPLEMENTAL.

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

(`88 Code, § 4-100)

REPAIR, CLOSING OR DEMOLITION OF ABANDONED STRUCTURES

§ 150.100 FINDING; INTENT.

It is found that there exists within the city abandoned structures which the City Council finds to be hazardous to the health, safety and welfare of the residents of the city due to 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. Therefore, pursuant to the authority granted by G.S. § 160A-441, it is the intent of this subchapter to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation. (Ord. passed 10-12-89)

§ 150.101 DUTIES OF BUILDING INSPECTOR.

The Building Inspector is designated as the city officer to enforce the provisions of this subchapter. It shall be the duty of the Building Inspector:

- (A) To locate abandoned structures within the city and determine which structures are in violation of this subchapter;
- (B) To take such action pursuant to this subchapter as may be necessary to provide for the repair, closing or demolition of such structures;
- (C) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this subchapter; and
- (D) To perform such other duties as may be prescribed herein or assigned to him or her by the City Council. (Ord. passed 10-12-89)

§ 150.102 POWERS OF THE BUILDING INSPECTOR.

The Building Inspector is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this subchapter, including the following powers in addition to others herein granted:

- (A) To investigate the condition of buildings within the city in order to determine which structures are abandoned and in violation of this subchapter;
- (B) To enter upon premises for the purpose of making inspections;

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

(D) To designate such other officers, agents and employees of the city as he or she deems necessary to carry out the provisions of this subchapter. (Ord. passed 10-12-89)

§ 150.103 STANDARDS FOR ENFORCEMENT.

(A) Every abandoned structure within the city shall be deemed in violation of this subchapter whenever the structure constitutes a hazard to the health, safety or welfare of the city citizens as a result of:

- (1) The attraction of insects or rodents;
- (2) Conditions creating a fire hazard;
- (3) Dangerous conditions constituting a threat to children; or
- (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of this subchapter, the Building Inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

- (1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents and insects or become breeding places for rodents and insects;
- (2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects or become breeding places for rodents and insects;
- (3) Violations of the State Building Code, the State Electrical Code or the Fire Prevention Code which constitute a fire hazard in such structure;

(4) The collection of garbage, rubbish or combustible material which constitutes a fire hazard in such structure;

(5) The use of such structure or nearby grounds or facilities by children as a play area;

(6) Violations of the State Building Code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and

(7) Repeated use of such structure by transients and vagrants in the absence of sanitary facilities for living, sleeping, cooking or eating.
(Ord. passed 10-12-89)

§ 150.104 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Inspector by at least five residents of the city charging that any structure exists in violation of this subchapter or whenever it appears to the Inspector, upon inspection, that any structure exists in violation hereof, he or she shall, if his or her preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties in interest in the structure a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten nor more 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 the hearing shall also be given to at least one of the persons signing a petition relating to such structure. 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 Inspector.

(B) *Procedure after hearing.* After such notice and hearing, the Inspector shall state in writing his or her determination whether the structure violates this subchapter. If the Inspector determines that the

dwelling is in violation, he or she shall state in writing his or her findings of fact to support the determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such structure or else remove or demolish the same within a specified period of time not to exceed 90 days.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any structure shall fail to comply with an order of the Inspector within the time specified therein, the Inspector may submit to the City Council at its next regular meeting a resolution directing the City Attorney to petition the Superior Court for an order directing the owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* After failure of an owner of a structure to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding subsection (1), the Inspector shall submit to the City Council an ordinance ordering the Inspector to cause the structure to be removed or demolished, as provided in the original order of the Inspector, and pending such removal or demolition, to placard the dwelling as provided by G.S. § 160A-443.

(D) *Petition to Superior Court by owner.* Any person aggrieved by an order issued by the Inspector shall have the right, within 30 days after issuance of the order, to petition the Superior Court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

(Ord. passed 10-12-89)

§ 150.105 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of the persons are unknown and the same cannot be ascertained by the Inspector in the exercise of

reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of the complaint or order upon the person may be made by publication in a newspaper having general circulation in the city at least once, on later than the time at which personal service is required under § 150.104 of this subchapter. 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.

(Ord. passed 10-12-89)

**§ 150.106 IN REM ACTION BY INSPECTION;
PLACARDING.**

(A) After failure of an owner of a structure to comply with an order of the Inspector issued pursuant to the provisions of this subchapter and upon adoption by the City Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. § 160A-443(5) and § 150.104(C), the Inspector shall proceed to cause the structure either to be repaired or else removed or demolished, as directed by the ordinance of the City Council, and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

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

(Ord. passed 10-12-89) Penalty, see § 10.99

§ 150.107 COSTS OF LIEN ON PREMISES.

As provided by G.S. § 160A-446(6), the amount of the cost of any removal or demolition caused to be made or done by the Inspector pursuant to this subchapter 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 enforced and the costs collected as provided by G.S. Chapter 160A, Article 10.

(Ord. passed 10-12-89)

CHAPTER 151: MINIMUM HOUSING STANDARDS

Section

General Provisions

GENERAL PROVISIONS

- 151.01 Finding; purpose
- 151.02 Definitions
- 151.03 Responsibilities of owners and occupants
- 151.04 Conflicts

§ 151.01 FINDING; PURPOSE.

(A) Pursuant to G.S. § 160A-441, it is declared that there exist in the city dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals; and otherwise inimical to the welfare of the residents of the city.

Minimum Standards

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

(B) In order to protect the health, safety and welfare of the residents of the city as authorized by G.S. Chapter 160A, Article 19, Part 6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation as expressly authorized by G.S. § 160A-444.
(Ord. passed 8-9-88)

Administration and Enforcement

- 151.35 Powers and duties of Building Inspector
- 151.36 Inspections; duty of owners and occupants
- 151.37 Procedure for enforcement
- 151.38 Methods of service of complaints and orders
- 151.98 Violations
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§ 151.02 DEFINITIONS.

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

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

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

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

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

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

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

EXTERMINATION. The control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Inspector.

GARBAGE. The organic 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, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

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

INSPECTOR. The Building Inspector of the city or any authorized agent of the Inspector.

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

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

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

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

(1) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof;

(2) Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit; or

(3) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

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

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

PUBLIC AUTHORITY. The City Housing Authority or any officer who is in charge of any department or branch of the government of the city or of the county or the state relating to health, fire or building regulations or other activities concerning dwellings in the city.

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

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

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

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

TEMPORARY HOUSING. Any trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

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

one or more of the requirements established by this chapter.

WORDS HAVING CERTAIN MEANING. Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, or premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof." (Ord. passed 8-9-88)

§ 151.03 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

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

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

(C) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same. (Ord. passed 8-9-88)

§ 151.04 CONFLICTS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the city, the provision which establishes the higher

standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the city shall prevail.

(Ord. passed 8-9-88)

MINIMUM STANDARDS

§ 151.15 FITNESS FOR DWELLINGS AND DWELLING UNITS.

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

(B) No person shall occupy as owner-occupant or let to another for occupancy or use as a human habitation any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 151.16 through 151.21 of this chapter.

(Ord. passed 8-9-88) Penalty, see § 151.99

§ 151.16 STRUCTURAL CONDITIONS.

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

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

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

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

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

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials which will, by use of reasonable household methods, promote sanitation and cleanliness and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and water tight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors or untreated wood floors on the ground.
(Ord. passed 8-9-88) Penalty, see § 151.99

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

(A) Plumbing system.

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

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

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be

maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:

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

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

(C) *Electrical system.*

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain electric convenience receptacles connected in such manner as determined by the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.

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

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

(Ord. passed 8-9-88) Penalty, see § 151.99

§ 151.18 VENTILATION.

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 8% of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light-obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of the room, the total window area of the skylight shall equal at least 15% of the total floor area of the room.

(B) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 50% of the minimum window area size or minimum skylight-type window size as required or shall have other approved, equivalent ventilation.

(C) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with Vol. 1 and Vol. 2 of the North Carolina State Building Code.

(Ord. passed 8-9-88) Penalty, see § 151.99

§ 151.19 SPACE, USE AND LOCATION.

(A) *Room sizes.*

(1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code.

(2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants and at least 75 square feet of additional habitable floor area for each additional occupant.

(3) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) *Ceiling height.* All full stories must have all ceiling heights a minimum of seven feet six inches in all habitable rooms. All attic areas for habitable use must have a ceiling height of at least seven feet six inches over one-third of each room.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. The floor area of any space where the ceiling height is less than four and one-half feet shall not be considered habitable room area and therefore not considered as part of the floor area for the purpose of determining maximum permissible occupancy.

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

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

(1) The floor and walls are substantially watertight;

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

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window

or windows face a stairwell, window well or accessway.

(Ord. passed 8-9-88) Penalty, see § 151.99

§ 151.20 SAFE AND SANITARY MAINTENANCE.

(A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent proof, shall be kept in sound condition and good repair and shall be capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

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

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

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

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under

this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

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

(H) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.
(Ord. passed 8-9-88) Penalty, see § 151.99

§ 151.21 CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.

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

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

dwelling units, extermination shall be the responsibility of the owner.

(D) *Garbage and rubbish; storage and disposal.* Every dwelling and every dwelling unit shall be supplied with adequate provisions for garbage and rubbish storage and disposal. Properties within the city limits shall comply with the regulations of Chapter 50 of this code. Properties outside the city limits shall store and dispose of garbage and rubbish in a safe and sanitary manner. The owner, operators or agent in control of the dwelling or dwelling unit shall be responsible for the removal of rubbish.
(Ord. passed 8-9-88) Penalty, see § 151.99

§ 151.22 ROOMING HOUSES; EXCEPTIONS.

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

(A) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower properly connected to an approved water and sewer system and in good working condition shall be supplied for each four rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

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

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

(Ord. passed 8-9-88) Penalty, see § 151.99

ADMINISTRATION AND ENFORCEMENT

§ 151.35 POWERS AND DUTIES OF BUILDING INSPECTOR.

The Building Inspector is designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. The Building Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter. The Building Inspector shall have the following powers and duties:

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

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

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

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

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

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

(G) To perform such other duties as may be prescribed herein or by the City Council.
(Ord. passed 8-9-88)

§ 151.36 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.

(A) For the purpose of making inspections, the Inspector is authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house or rooming unit or the person in charge thereof shall give the Inspector free access to the dwelling and its premises at all reasonable times for the purposes of such inspection, examination and survey.

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

premises is denied, the Building Inspector must obtain a warrant to inspect; G.S. § 15-27.2 provides for the issuance of warrants for the conduct of inspections authorized by law.
(Ord. passed 8-9-88)

§ 151.37 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice; hearing.*
Whenever a petition is filed with the Inspector by a Public Authority or by at least five residents of the city charging that any dwelling or dwelling unit is unfit for human habitation or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for 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 Inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the dwelling. Any person desiring to do so may attend the hearing and give evidence relevant in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) *Procedure after hearing.*

(1) After such notice and hearing, the Inspector shall state in writing his or her determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

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

chapter within a specified period of time, not to exceed 90 days. The order may also direct and require the owner to vacate and close the dwelling or dwelling unit until the repairs, alterations and improvements have been made.

(3) If the Inspector determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair or improve such dwelling or dwelling unit, to comply with the minimum standards of fitness established by this chapter or else to vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(C) *Failure to comply with order.*

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

(2) *In rem remedy.* After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (1), the Inspector shall submit to the City Council an ordinance ordering the Inspector to cause the dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on the dwelling as provided by G.S. § 160A-443.

(D) *Appeals from orders of Inspectors.*

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

(2) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from and may make 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 Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. 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.

(3) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(E) *Petition to Superior Court by owner.* Any person aggrieved by an order issued by the Inspector 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 Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).
(Ord. passed 8-9-88)

§ 151.38 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

(A) Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon the person may be made by publishing the same at least once, on later than the time at which personal service would be required under the provisions of this chapter, in a newspaper having general circulation in the city. 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.

(B) If the Zoning Board of Adjustment consists of more than five members, the Chairman shall designate five members to hear appeals under this chapter.
(Ord. passed 8-9-88)

§ 151.98 VIOLATIONS.

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

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 151.37 of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(Ord. passed 8-9-88) Penalty, see § 151.99

§ 151.99 PENALTY.

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

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

(Ord. passed 8-9-88)

CHAPTER 152: COMPREHENSIVE PLANNING AND DEVELOPMENT

Section

152.01 Unified Development Ordinance
adopted by reference

§ 152.01 UNIFIED DEVELOPMENT ORDINANCE ADOPTED BY REFERENCE.

There is hereby adopted by reference and incorporated into this code of ordinances as if fully set forth herein the Unified Development Ordinance, enacted on August 10, 1993. Copies of the ordinance shall be kept on file and be available for public inspection in the office of the City Clerk.

