

AN ORDINANCE AMENDING THE MINIMUM HOUSING CODE

Whereas, council having considered the substance of this ordinance in a public hearing held on June 4, 2012;

Whereas, the city administration certifies that notice has been provided regarding the public hearing in accordance with G.S. 160A-364;

Whereas, G.S. 160A-441 et seq. authorizes a city to adopt a minimum housing code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DURHAM:

Section 1: Article VI., Chapter 10 of the Durham City Code captioned as “Housing Code” is repealed.

Section 2: Article VI., Chapter 10 of the Durham City Code captioned as “Housing Code” is adopted as follows:

“Article VI. Housing Code

Sec. 10-230. Title

This article shall be known and may be cited and referred to as the “Housing Code.”

Section 10-231. Legislative findings.

The city council hereby finds and declares that there exists in the city, housing which is unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities and other conditions rendering such housing unsafe or unsanitary or dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents of the city and that a public necessity exists to exercise the police powers of the city pursuant to G.S. 160A-441 et seq., to cause the repair and rehabilitation, closing or demolishing of such housing in the manner herein provided.

Sec. 10-232. Scope and Application of Article

The provisions of this article shall apply to all housing irrespective of when such housing was constructed, altered or repaired. Portable, mobile or demountable buildings or structures, including trailers, when used or intended for use for housing within the city's jurisdiction shall be subject to the applicable provisions of this article.

Sec. 10-233. Definitions.

The following words and phrases shall have the meanings set forth herein unless the context clearly indicates otherwise:

Accessory structure means a structure that is a detached building, like a shed, that is on the same lot as the main housing, but is used for a different purpose other than a dwelling.

Administrator means the housing code administrator or his or her designee.

Agent means any person, firm or corporation who is responsible for the management, maintenance, operation, renting, leasing or sale of any property, or who makes application for or seeks a permit or certificate on behalf of the owner or who in any other way represents the owner in any particular case.

Alley means a strip of land, typically no more than 20 feet in width, either publicly or privately owned, or dedicated or maintained by a public agency, that is set aside primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

Areaway means any subsurface space adjacent to a building for affording access to or for lighting or ventilating the basement or a cellar of such building.

Basement means the lowest level or story which has its floor sub-grade on at least three sides.

Bathroom means a heated enclosed space containing a lavatory, a toilet, and either a tub, a shower or a tub/shower combination.

Ceiling means the surface suspended from or attached to the underside of floors or roofs which does not form a structural part of a floor or roof or the underside of an exposed floor or roof construction.

Ceiling height means the clear distance between the floor and the ceiling directly above.

Cellar means the lowest space in a building located under the basement story.

Central heating unit means a unit controlled by a thermostat or some other device designed to provide heating to a dwelling or dwelling unit through a duct, wall-mounted system or baseboard-mounted equipment.

Dwelling means any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and the appurtenances belonging thereto or usually used therewith.

Dwelling unit means a habitable space occupied or intended for occupation as a single housekeeping unit with facilities which are used or intended for use for living, sleeping, cooking and eating.

Excessive means exceeding what is usual, proper, necessary, or normal.

Exit means a 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 and other pests by eliminating their harborage, by removing or making inaccessible materials that serve as their food, by poisoning, spraying, fumigating, trapping or by any other recognized and lawful pest elimination method approved by the administrator.

Family means one or more persons living together and having common housekeeping facilities.

Fireproofing means protected to resist the damaging effects of fire in accordance with the requirements of this article for such construction.

Flue means an enclosed pipe, duct or passageway used only for the transmission of heat or the products of combustion.

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

Habitable space, habitable room means any room or enclosed floor space in a structure used or intended for use for living or sleeping and finished basements, but excluding bathrooms, half-baths, halls, corridors, pantries, storage space, closets, laundries, kitchens and other spaces not used frequently or for extended periods.

Half-bath means an enclosed space containing a toilet or urinal and lavatory basin.

Hearth means the brick, stone or cement area in front of a fireplace.

Heating unit means all mechanical devices or other appliances that utilize fuel or another form of energy to produce heat.

House, housing means any dwelling, multifamily dwelling, apartment, residency hotel, roominghouse, boardinghouse, bed and breakfast, inn or similar building or structure, or part thereof, containing habitable space.

Housing Certificate means written certification by the administrator that a dwelling or dwelling unit or rooming unit is in compliance with this article.

Impervious to water (as to floors) means a clean, smooth floor, without cracks or holes, made of terrazzo, ceramic, asphalt or rubber tile, smooth concrete, linoleum or other similar material, or made of wood, and, if made of wood, then with tightly fitting joints, covered with varnish, lacquer or other similar water-resistant coating.

Infestation means the presence within or around any housing of insects, rodents, or other pests.

Lavatory means a fixed wash bowl equipped with plumbing.

Maintenance of a building, structure, apparatus or equipment means the way or manner in which any such building, structure, appliance, apparatus or equipment is serviced, repaired or altered to perpetuate the use or purpose for which such building, structure, appliance, apparatus or equipment was originally intended.

Multifamily dwelling means a building or structure occupied or intended for occupation as the home or residence of two or more families living independently of each other and doing their own cooking within their respective dwelling unit.

New work means any work done that requires a building permit.

Occupant means any person living, sleeping, cooking, or eating in or having actual possession of a dwelling unit or rooming unit.

Owner means any person, firm, corporation, guardian, conservator, receiver, trustee, executor, or other judicial officer, who alone or jointly owns, holds, or controls the freehold or leasehold title to any dwelling or dwelling unit and every mortgagee of record.

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

Person means any individual, firm, co-partnership, corporation, company or association, and shall include any personal representative, trustee, receiver, assignee or other similar representative.

Plumbing means the water supply system, the sanitary sewer system, the vent system, fixtures and traps and shall include their respective connections, devices, appliances and nonessential components within the property lines of the premises.

Portable heating unit means an unvented air heating appliance which is designed for environmental heating and is not secured or attached to a building by any means other than an electrical cord.

Premises means a lot or group of lots including any building or group of buildings or other structures or parts thereof, which may be situated thereon and considered as a unit devoted to a certain use or occupancy, including the necessary and customary accessory buildings and other open spaces required or used in connection with such use of a lot or group of lots.

Public area means that space within any housing which is open to use or access by the general public.

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

Removal means the demolition and removal of the entire structure, leaving the property free and clear of debris and without holes or pockets which may retain water.

Residency hotel means a building or group of buildings containing ten or more guest rooms for transient or permanent residents. Occupancy shall not exceed two people per guest room. Registration facilities, 24 hour on site management and housekeeping services shall be provided. This definition does not include hotels, motels or other places of lodging that are inspected by the county health department.

Roofing means the shingles, tiles, composition, sheet metal covering or other waterproof

protection on top of a roof.

Rooming unit means a room or group of rooms forming a single habitable space, used or intended to be used for living and sleeping, but not for cooking or eating purposes. Any room or group of rooms in a roominghouse, boardinghouse, bed and breakfast inn, residency hotel or other similar building that is used for human habitation shall constitute a rooming unit.

Roominghouse, boardinghouse means any housing or part of any housing containing one or more rooming units in which space is let by the owner or operator to four or more persons who are not members of the family of the owner or operator.

Rubbish means combustible and noncombustible waste materials, except garbage, and the word shall include, but not be limited to, the residue from the burning of wood, coal, coke and other rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

Space heating unit means a permanently installed unit which utilizes fuel or another form of energy and is designed to provide continuous heat to a dwelling or part of a dwelling.

Structure means a walled and roofed building that is principally above ground and constructed or erected, the use of which requires location on land.

Substantial means firmly constructed, sturdy, safe, sound, solid, or stout in a manner to adequately perform its original purpose.

Tenant means a person, co-partnership, firm or corporation occupying or using a building, premises or any part thereof owned by another.

Ventilation means the adequate supply and removal of air to and from a space through windows, skylights, doors, louvers, grilles, ducts or other similar devices.

Water heating unit means an appliance listed by a testing laboratory which is capable of heating water to a temperature between 120 and 140 degrees Fahrenheit to all appropriate plumbing fixtures within a dwelling or dwelling unit.

Weather tight means so constructed that the structure resists weather and excludes rain and snow, and prevents the infiltration of air.

Workmanship means executed in a skilled manner that is generally plumb, level, square, in line, undamaged and without marring adjacent work.

Sec. 10-234. - Standards of fitness.

(a) *Space and use standards.*

(1) Contents of dwelling unit. Every dwelling unit shall contain the following:

- a. A principal room of not less than 120 square feet;
- b. A bathroom that affords privacy and contains a toilet, lavatory and either a tub or shower;
- c. A habitable room, including all bedrooms, shall not be less than 7 feet in any plan dimension, have at least 70 square feet and shall have a clear ceiling height of not less than 7 feet;
- d. At least 150 square feet of floor area in habitable rooms for the first occupant, at least 100 square feet for each additional occupant. The floor area shall be calculated on the basis of the total floor area of the dwelling unit, exclusive of stairways. For the purpose of such calculation, only the floor area in a basement meeting the requirements for basement occupancy shall be counted.

(2) *Kitchen and kitchen facilities.*

- a. Every dwelling unit shall contain a room or space for the preparation and cooking of food which shall include space and connections for a stove or other cooking facilities, space for dry food storage and space for refrigerated food storage and a kitchen sink.
- b. The use of gasoline stoves or other similar fuel burning appliances using highly flammable liquids and the use of portable kerosene stoves or other similar fuel burning portable appliances for cooking is prohibited.
- c. Hoods and ducts over kitchen ranges shall be cleaned to remove grease or other flammable materials. The owner shall provide a clean hood fan and the occupant is responsible for the cleaning of the hood fan during occupancy.
- d. All fuel burning appliances shall be properly vented to the outside.

(3) *Basement occupancy.* No room in any basement shall be occupied as a habitable room, bathroom or toilet room unless:

- a. There are no pipes, ducts or other obstructions to a walk area less than six feet above the floor level or less than five feet eight

inches above the floor level in a bathroom or toilet room existing on the effective date of this article, and ceiling heights are in accordance with this article, except that a bathroom existing on the effective date of this article with at least one-half of the floor area having a ceiling height of not less than six feet six inches shall be permitted to continue;

b. Light and ventilation for habitable rooms are provided in accordance with this article and 70 percent of the regular window area is above the ground level, except when window areaways or window wells are provided so that the minimum width of the areaway or well is not less than twice the distance from the bottom of the window to the finished grade; and

c. The floor and walls, if in contact with the earth, are waterproof and dampproof in accordance with an acceptable method that assures that the damp proofing and water proofing continues to be effective.

(4) *Passing through bathrooms.* Each dwelling unit shall be provided with a means of circulation giving access to all rooms without passing through a bathroom; but any passage through a bathroom existing at the time of the effective date of this article may be continued.

(5) *Doors.* Doors shall be provided at all doorways leading to bedrooms, bathrooms and all rooms adjoining a public area.

(6) *Prohibited uses.* Kitchen and non-habitable or public spaces shall not be used for sleeping purposes. No cellar space shall be used as a habitable space.

(b) *Entrances and exits.*

(1) All entrances and exits must meet the standards set forth in the North Carolina State Building Code which is in effect at the time of construction.

(2) Doors providing entrance and exit for any dwelling unit shall have locking devices capable of being operated from the inside and outside of the dwelling. Barrel bolts and hasps with padlocks are not adequate for primary doors. This requirement shall not apply to screen, storm or louver doors.

(3) Safe, continuous and unobstructed exit shall be provided from interior of building to the exterior at street or grade level.

(4) Platforms and steps shall be provided, where appropriate, to serve exits and shall be maintained in a safe condition.

(5) In all multifamily dwellings, all exit signs required by the laws and ordinances of the city shall be provided and maintained so as to be clearly visible at all times when the building is occupied.

(c) *Light and ventilation standards.*

(1) Every habitable room in a dwelling or dwelling unit shall contain a window opening directly to the outside air and the total glass area of such window shall not be less than eight percent of the floor area of such room, provided that the administrator may approve such other arrangement as will adequately light and ventilate the room where provision for openable windows is not feasible. All window sashes shall be glazed and provided with suitable hardware and shall be made to open freely to the extent of not less than four percent of the floor area of such room.

(2) When a window cannot be provided to open directly to the outside air, a ventilating system which is vented to the outside may be substituted for the required window area. A blind, bathroom or toilet room shall be provided with artificial light and mechanical ventilation. However, existing ventilating systems in bathrooms and toilet rooms which are functioning adequately may be permitted to remain.

(3) All operable and openable windows shall be adequately screened or equipped with storm windows from the period May 1 to November 1. Screens shall not be permanently fixed to the window frame or sash unless designed by the manufacturer. All operable or openable exterior doors shall have either a screen door or a storm door, equipped with a self-closing device, from the period May 1 to November 1. Note: This requirement shall not apply to dwelling units containing a heating and air conditioning system providing the dwelling unit with year round mechanical ventilation, including permanently installed systems which provide such mechanical ventilation for one or more rooms. This requirement shall apply to dwelling units equipped with window air conditioning units which are not permanently installed.

(4) Window frames and glass shall be reasonably weather tight, with no cracked or broken glass. If, in the opinion of the administrator, certain cracked glass does not present a danger or hazard, a waiver of this provision may be granted.

(5) Openable window area in each toilet room and bathroom shall be at least 1½ square feet, unless served by other approved ventilation.

(6) Every sleeping room, unless it has two exits, or one exit direct to the outside, shall have at least one window that can be opened without the use of tools, including burglar bars, to provide a clear opening not less than 16 inches in least dimension and 432 square inches in area, or if of fixed glass must be at least 24 inches by 24 inches, with the bottom of the opening not more than four feet above the floor. Required openable window area shall have fixed screens.

(7) Clothes dryer exhaust systems shall be vented in accordance with the manufacturer's instruction.

(d) *Lighting of halls and stairs.* Every common hallway and stairway in every multifamily dwelling shall be adequately lighted at all times with fixtures sufficient to provide at least three foot-candles of light at the floor or stair tread level at all times. Non multifamily dwellings may be supplied with conveniently located light switches controlling the lighting system which provides the illumination required herein and which may be turned on when needed.

(e) *Heating.*

(1) *Heating facilities.* Every dwelling and dwelling unit shall be provided with a heating unit which is properly designed, installed and balanced or adjusted, maintained in good and safe condition and which is capable of safely and adequately heating all habitable rooms, bathrooms and water compartments located therein to a temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilets. The required room temperatures shall be measured 3 feet above the floor near the center of the room and 2 feet inward from the center of each exterior wall. All rooms may vary in temperature by as much as ten degrees Fahrenheit. Either central or space heating units designed for continuous use may be used. Portable or temporary space heaters are strictly prohibited as a primary source of heat, but may be used to supplement heating.

(2) *Central heating units.*

a. *Every central heating unit shall:*

1. Have every duct, pipe or tube free of leaks and functioning properly to provide an adequate amount of heat or hot water to the intended place of delivery;

2. Be provided with proper seals between sections of hot air furnaces to prevent the escape of noxious fumes and gases into heat ducts;

3. Be properly connected to an electric circuit of adequate capacity in an approved manner if electrical power is required; and

4. Be provided with all required automatic or safety devices and be installed and operated in the manner required by the laws, ordinances and regulation of the city.

b. All liquid fuel used to operate any central heating unit shall be stored in accordance with the city's fire prevention and building codes;

c. All gas and oil heating equipment installed on the premises shall be listed by a testing laboratory and shall be installed, including proper ventilation, in accordance with the provisions of the North Carolina State Building Code.

(3) *Space heating units.*

a. Every space heating unit shall:

1. Not use gasoline or other similar highly flammable liquid fuel;

2. Not be of portable type using solid, liquid or gaseous fuel;

3. Be properly connected according to the manufacturer's instructions on installation;

4. Be so located or protected as to prevent any overheating of adjacent combustible material;

5. If employing electricity, be connected to a circuit of adequate capacity in an approved manner;

6. Be provided with all required automatic or safety devices; and

7. Be installed under permit and be properly operated.

b. A kerosene space heater which has its fuel piped to the heater from a remotely installed bulk tank shall be permissible under this section. Other portable kerosene space heaters are strictly prohibited as a primary source of heat.

c. All unvented gas-fired heating units are strictly prohibited, as a primary source of heat.

d. Ornamental gas logs may be installed in a fireplace provided that such installation is in compliance with the North Carolina Mechanical Code.

(4) *Fireplaces and chimneys.* The following standards and conditions shall be applicable to fireplaces and chimneys unless rendered inoperable:

a. Chimneys shall be tight and safe, and capable of maintaining proper draft for carriage of combustion by-products to outside air.

b. Chimneys shall be kept clean of soot and other debris.

c. No holes shall be permitted in flue, except for necessary vent connections and clean out doors.

d. All existing hanging masonry chimneys shall be removed.

e. Thimbles shall be grouted in tight.

f. Thimbles shall be located high enough to provide proper draft for the heating appliances served thereby.

g. Fireplaces may be used only for supplemental heat and not as the primary heating source for a dwelling. This section does not exclude the use of wood burning stoves or inserts as the primary heating source for a dwelling.

h. The hearth and the hearth extension shall extend a minimum of 36 inches from the back of the firebox to the end of the hearth extension. The hearth extension shall extend at least 16 inches in front of and at least eight inches beyond each side of the fireplace opening. Where the fireplace opening is six square feet or larger, the hearth extension shall extend at least 20 inches in front of and at least 12 inches beyond each side of the fireplace opening.

i. No combustible materials shall be permitted within seven inches of the top and seven inches of either side of the fireplace opening.

j. Where fireplace is closed and converted to other use, there shall be masonry closure of face and proper lining or vent installed in chimney where same does not exist.

(f) *General requirements relating to safety and maintenance.*

(1) *Good repair and safe condition.* Every building and all parts thereof used or occupied as a dwelling shall be kept in good repair, in safe condition

and fit for human habitation. The roof and walls of all such buildings shall be maintained so as not to leak; and all means of draining water there from shall be maintained as to prevent dampness in the walls, ceiling or crawl space or basement.

(2) *Quality of materials and workmanship.* All materials shall be of similar design and similar quality and shall meet the standards set forth in the [North Carolina State Building Codes](#). Plumbing, mechanical, and electrical components shall meet the standards set forth in the [North Carolina State Building Codes](#). The quality of workmanship shall be based on standards generally accepted in the construction industry.

(g) *Structural standards.*

(1) *Foundation.*

a. Every dwelling unit shall be on firm ground. Foundation drainage shall be provided and maintained so as to prevent standing water or other conditions that contribute to mold.

b. Footings shall be sound with adequate bearing.

c. All elements of the foundation, including structural members and masonry, shall be in good repair. An engineer's report indicating structural soundness satisfies this requirement.

d. No piers shall be used for support in which the plumb line from top center falls outside the middle one-third of the base of the pier. (A plumb bob held firmly against the top of the pier and hanging down the sidewall indicates the vertical alignment.)

e. No isolated masonry piers exceeding in height ten times the least dimension of pier shall be permitted.

f. A crawl space access hole having a door shall be provided to any under floor space in all dwellings.

(2) *Walls, exterior.*

a. All exterior surfaces shall be structurally sound, waterproof, weatherproof, and vermin proof.

b. All exterior finishes shall be weather tight with no holes, cracks or rotted boards which permit outside air or water to penetrate rooms.

c. Windows shall be easily openable, shall have panes without cracks or holes and the sash shall fit properly.

d. All structure or load bearing walls, exterior or interior, shall not be bowed or out of plumb and shall be structurally sound. An engineer's report indicating compliance with this provision satisfies this requirement.

e. Studs shall provide sufficient support for sheathing or exterior finish.

(3) *Roofs.*

a. Roofing shall be provided to prevent the entrance of moisture and shall be maintained by renewal, repair, waterproofing or other suitable means.

b. Gutters and downspouts, if installed, shall be provided to properly collect, conduct and discharge the water from the roof and away from the structure.

c. Roofs shall be supported and no rafters shall be rotted, broken, sagging or have improperly supported ends. A report from a licensed engineer indicating compliance with this provision satisfies this requirement.

d. Attics shall have ventilation that allows the movement of air to dissipate excessive heat buildup. Heat buildup is excessive if it causes deterioration of any structural member or roofing material.

e. Sheathing shall not be rotted, loose or sagging excessively.

f. Roof covering shall not be loose, nor have holes or leaks.

g. Adequate flashing shall be provided at walls and chimneys in a manner that continues to be effective.

(4) *Stairs and steps.*

a. Stairs and steps shall be free of holes, grooves and cracks large enough to constitute accident hazards.

b. Handrails shall be provided on at least one side of stairways of four or more risers.

c. No flight of stairs shall be settled out of its intended position or pulled away from supporting or adjacent members. A report from a licensed engineer indicating compliance with this provision satisfies this requirement.

d. Stairs shall be strongly supported and supports shall not be rotting, sagging or deteriorated. A report from a licensed engineer indicating compliance with this provision satisfies this requirement.

e. Stairs shall be plumb, level and treads shall be uniform in width, and risers shall be uniform in height, sound and securely fastened to structure. A slight uniform tilt of the treads to aid in the runoff of water is permissible for exterior steps.

f. Every stairway, including inside stairs and rails, porches, decks and appurtenances thereto shall be kept in sound condition and good repair.

g. Platforms and steps shall be provided to serve exits and shall be maintained in a safe condition.

(5) *Ceilings.*

a. Joists and supporting members shall provide sufficient support for the ceiling.

b. No holes or cracks which permit outside air to penetrate rooms shall be permitted.

c. There shall be no loose plaster, boards, sheetrock, or ceiling finish. Any materials used in the repair of the ceiling shall be of a material that is similar in texture and appearance to the original material. This provision does not prohibit the replacement of the entire ceiling; provided that the material used is contiguous over the entire ceiling area within the affected room.

d. Ceilings shall be maintained free of holes, excessive cracks or loose or deteriorated materials.

e. All ceilings shall be kept clean and free of any flaking, loose or peeling paint and paper.

f. A minimum clear opening (attic access hole) into each attic space of 14 inches by 24 inches shall be provided to allow for access, inspection and repair. In cases where meeting this requirement would necessitate major alterations of the

structure, or would produce harmful accumulations of heat or moisture that cannot be removed by ventilation, the administrator may grant a waiver of this requirement.

g. Every dwelling unit shall have a minimum of R-19 insulation in the attic area. The approved types include blown insulation, batt insulation or other insulation equivalent to a total of R-19 insulation value.

(6) *Walls, interior.*

a. Interior finish shall be free of excessive holes and excessive cracks which:

1. Permit outside air or moisture to penetrate rooms;
2. Allow rodent or insect infiltration; or
3. Contain loose or flaking materials.

b. All walls, woodwork, doors and windows shall be kept clean and free of any flaking, loose or peeling paint.

c. There shall be no loose plaster, boards, or other loose wall materials.

d. Cardboard, newspaper or other highly combustible or improper wall finish is prohibited.

e. Studs shall provide sufficient support for interior wall.

f. Doors must fit the opening in which they are hung and be equipped with hardware that allows for their opening and closing.

(7) *Floors.*

a. Broken, overloaded, excessively decayed or sagging structural floor members are prohibited.

b. Structural floor members shall be supported on foundation walls and piers that are not deteriorated and perform the function for which they were intended.

c. Floor joists shall be supported on structural bearing members and shall not be made structurally unsound by deterioration.

d. Flooring shall be reasonably smooth, not rotten or worn through, and without holes or excessive cracks which permit outside air to penetrate rooms.

e. Flooring shall not be loose.

f. Split, splintered or badly worn floor boards shall be repaired or replaced.

g. Floors in contact with soil shall be paved either with concrete not less than three inches thick or with other masonry not less than four inches thick, which shall be sealed tightly to the foundation walls.

h. All laundry and kitchen floors shall be constructed and maintained so as to be impervious to water.

(h) *Property maintenance.*

(1) *Structures.* Floors, walls, ceilings and fixtures shall be maintained in a clean and sanitary condition.

(2) *Open areas.*

a. Surface and subsurface water shall be appropriately drained from open areas to protect structures and to prevent development of stagnant ponds.

b. Fences and all accessory structures shall be maintained in a safe and substantial condition. Accessory structures shall include, but are not limited to sheds, storage buildings and detached carports and garages.

c. Yards and courts within the boundaries of the property shall be kept clean and free of physical hazards, rubbish, trash, garbage, debris, litter, or unstacked wood.

d. Unmaintained accumulations of dense weeds, grass, vines or briars over 12 inches in height, and within either 100 feet of an abutting public street or 50 feet of a primary residential structure, not including detached accessory structure, shall be prohibited if deemed to constitute a public nuisance by the administrator. A public nuisance in this provision is defined as conditions that serve as a harborage for rodents, vermin, mosquitoes and other pests and represents a detriment, danger or hazard to the health, safety and welfare of the residents of the city's jurisdiction. Such accumulations of growth shall be cleared and cut to no more than six inches in height.

e. Every owner shall provide a site for storage of trash receptacles in a location away from the curb so that trash and garbage will not scatter on the property beyond that site. Occupants shall be responsible for ensuring that all garbage is placed at the site provided.

f. Retaining walls or any other wall supporting systems shall not present a physical hazard and shall be structurally safe and supported properly.

g. Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

h. Premises identification. Housing (dwellings) shall have *approved* address numbers, building numbers or *approved* building identification pursuant to Section R319 of the 2012 North Carolina State Residential Building Code.

(3) *Infestation.*

a. Grounds and structures shall be maintained free of insect vermin, and rodent harborage and infestation by generally accepted method of extermination. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

b. Every basement window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

c. In every dwelling unit, unless the dwelling is provided with an air conditioning system as provided for in subsection (c)(3) of this section, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed.

(i) *Electrical standards.*

(1) *Electrical service.*

a. Every dwelling unit and all public and common areas shall be supplied with adequate electric service, which shall be properly installed pursuant to the North Carolina State Building Code.

b. No receptacles, ceiling fixtures or other devices shall be permitted to hang loose.

c. All switches, fixtures and devices shall be safely operable or else properly sealed off and disconnected.

d. Flexible cords shall not be used as a substitute for the fixed wiring; run through holes in walls, ceilings, or floors; run through doorways, windows or similar openings; attached to building surfaces; concealed behind building walls, ceilings or floors.

e. Circuits shall not be overloaded.

f. Fuses shall be sized correctly and not bridged out.

g. Every public hall and stairway in every multifamily dwelling shall be adequately lighted at all times. Refer to subsection (d) of this section.

h. All electric wiring, devices, appliances and fixtures shall be installed and maintained in accordance with the current city and state electrical codes, except as herein stated.

(2) *Electrical outlets.* Every habitable room shall contain at least two separate duplex convenience outlets. Outlets shall be located as reasonable as possible to provide service to appliances in different parts of the same room. Duplex convenience outlets as herein provided, which may be lacking in single family dwellings otherwise meeting the provisions of this article shall be installed no later than one year from the passage of this article.

(3) *Electrical fixtures.* At least one fixed in place ceiling or wall type electric light fixture shall be provided in every toilet room, bathroom, laundry room, furnace room, public hall, basement or any other area in which artificial light is required for the safety and welfare of the occupants. A switched wall receptacle or light fixture shall be acceptable in a bedroom, living room or den.

(j) *Plumbing standards.*

(1) *General.*

a. Every dwelling unit shall be connected to a city water supply and/or sanitary sewer system unless the dwelling unit is connected to a county approved water supply and/or sanitary sewer system.

b. All plumbing, water closets and other plumbing fixtures in every dwelling or dwelling unit shall be installed and maintained in good working condition and repair and in accordance with the requirements of this article and the North Carolina State Building Code .

c. All plumbing shall be so maintained and used as to prevent contamination of the water supply through cross connections or back siphoning.

d. All fixtures shall be in proper working condition with no leaks existing.

e. No fixtures shall be cracked, broken or badly chipped.

f. All water piping shall be protected from freezing by proper installation in enclosed or concealed areas or by such other means as approved by a city plumbing inspector.

g. At least one three-inch minimum size main plumbing vent shall be properly installed for each building.

h. Soil and water lines shall be properly supported with no broken or leaking lines.

i. Access to all bathrooms shall be through a weather tight and heated area.

j. Every dwelling unit shall contain within a room which affords privacy, a bathtub or shower in good working condition which shall be properly connected to both hot and cold water lines and to the public sanitary sewer or to an approved sewage disposal system. The floor of such room shall be made impervious to water to prevent structural deterioration and any development of unsanitary conditions.

(2) *Water heating unit.* Every dwelling or dwelling unit shall have supplied a water heating unit which has been listed by a testing agency and is properly installed, operated and maintained in safe and good working condition and is properly connected to the bathtub or shower, sink and lavatory basin, as required in this article. Such water heating unit shall be capable of automatically heating water to a

temperature of 120 degrees Fahrenheit and capable of meeting normal demands at every required outlet, even though the dwelling's heating unit is not in operation. All gas-fired water heaters shall be vented to the outside.

(3) *Bathroom.* Every dwelling unit shall contain, within a room which affords privacy, a toilet, lavatory basin and either a tub or shower in good working condition which shall be properly connected to the public sanitary sewer or to an approved sewage disposal system. The lavatory basin shall be properly connected to both hot and cold water lines, and the water closet shall be properly connected to a cold water line.

(k) *Painting.* Effective January 1, 1995, all exterior surfaces of buildings and structures, not inherently resistant to deterioration, shall be treated with a protective coating, such as paint or other suitable preservative, with sufficient frequency to prevent deterioration. All such portions shall be cleaned and free of flaking, loose or defective surfacing materials prior to painting or coating. All interior loose or peeling wall covering or paint shall be removed and the exposed surface shall be placed in a smooth and sanitary condition. No paint shall be used for interior painting of any dwelling or dwelling unit unless the paint is free from any lead pigment. Paint chips or paint dust shall not be left on interior or exterior surfaces of the dwelling or on the premises.

(l) *Fire and safety standards.*

(1) *Fireproofing and fire protection.* Every building used in whole or in part for dwelling purposes shall be provided with the fireproofing required by laws and ordinances of the city. Such fireproofing shall include, but not be limited to, the separation between occupancies, the enclosure of furnace rooms and the enclosure of stairwells, where applicable. All required fireproofing shall be maintained in a good state of repair. All fire doors shall be maintained in operable condition and shall be equipped with approved self-closing devices.

(2) *Fire extinguishing equipment.* All fire extinguishing equipment required by the laws, ordinances and regulations of the city shall be provided and maintained in an operable condition.

(3) *Smoke detectors.* All dwellings and dwelling units shall be equipped with a smoke detector (battery operated or 110 volt) which has been listed by a testing agency (such as Underwriters Laboratories) and such detector shall be installed outside of each sleeping area inside the dwelling unit. All smoke detectors shall be located on or near the ceiling of the room wherein it is located and shall be installed in accordance with the manufacturer's instructions and maintained in proper working condition. **When a dwelling unit is subject to a rental**

agreement, the landlord and/or tenant shall be responsible for placement of batteries in the smoke detector as provided in N.C.G.S. 42-42(a)(5).

(4) *Fire alarm systems.* All fire alarm systems required by the laws, ordinances and regulations of the city shall be provided and maintained in an operable condition.

(5) *Flammable liquids.* The use of gasoline stoves or other similar fuel-burning appliances using highly flammable liquids and the use of portable kerosene stoves or other similar fuel-burning portable appliances for cooking is prohibited. The occupant of any dwelling or dwelling unit shall not have or store flammable liquids or gas or any combustible material in a quantity greater than that permitted by the city's fire prevention code.

(6) *Abandoned iceboxes.* The doors shall be removed from all iceboxes, refrigerators and other large air-tight containers which are abandoned and which are accessible to children, unless the door or lock can be released or opened from the inside.

(7) *Lead abatement.* The county health department is responsible for investigating cases of lead poisoning involving children less than six years old. Where the department reasonably suspects that a child less than six years old has an elevated blood lead level, it shall require that child to be examined and tested within 30 days. If an elevated blood lead level is detected, the department will proceed to take the necessary steps to abate the lead hazard. The department will also notify the administrator of the existence of such hazard. Upon such notification, the administrator shall initiate action requiring the owner to abate the hazard, within a time specified by the administrator, or to vacate and close the dwelling. The failure of an owner to abate the hazard as directed by the administrator may result in the condemning and demolishing of the dwelling.

(8) Carbon monoxide. The landlord is required to provide carbon monoxide detectors pursuant to N.C.G.S. §42-42 (a) (7). This subsection applies only to dwelling units having a fossil-fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage. In addition, such dwelling unit must be a rental unit as defined in Section 10-350.

Sec. 10-235. - Rooming houses, boardinghouses, bed and breakfast inns, residency hotels and other similar buildings.

(a) *Permit required.* No person shall operate a residency hotel within the city without first obtaining a use permit from the city council.

(b) *Rooms numbered.* Any person who operates an establishment covered under this section shall cause each rooming unit therein to be numbered in a plain and conspicuous manner, the number to be placed on the outside of the door and no two doors shall bear the same number.

(c) *Cleanliness of premises.* The operator of every establishment covered under this section shall keep the same and every part thereof clean and free from any accumulation of dirt, filth, rubbish, garbage, or similar matter and shall keep the same free from, and effectively protected against, vermin and rodent infestation.

(d) *Space and occupancy.* Space and occupancy in all establishments covered under this section shall comply with the provisions of section 10-234(a).

(e) *Basement occupancy.* No rooming unit, bathroom or toilet room serving a rooming unit shall be located in the basement unless such basement complies with the provisions of section 10-234(a)(5).

(f) *Structural standards.* Structural standards in all establishments covered under this section shall comply with the provisions of section 10-234(g).

(g) *Heating.* Heating in all establishments covered under this section shall comply with the provisions of section 10-234(e).

(h) *Light and ventilation.* Light and ventilation in all establishments covered under this section shall comply with the provisions of section 10-234(c).

(i) *Lighting of halls and stairs.* Lighting of public halls and stairways in all establishments covered under this section shall comply with the provisions of section 10-234(d).

(j) *Sinks.* Sinks in all establishments covered under this section shall comply with the provisions of section 10-234(j).

(k) *Bathing and toilet facilities.* At least one toilet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the administrator and in good working condition, shall be supplied, within a room which affords privacy, for each eight persons or fraction thereof residing within an establishment covered under this section, including members of the operator's family

wherever they share the use of the facilities. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. No such facilities hereinabove required shall be located in a basement, but nothing herein shall prohibit the installation of such facilities in a basement in addition to those hereinabove required if it meets the requirements of section 10-234(a)(5) basement occupancy.

(l) *Water heating units.* Water heating units in all establishments covered under this section shall comply with the provisions of section 10-234(j).

(m) *Plumbing installation and maintenance.* All plumbing, water closets, and other plumbing fixtures in every establishment covered under this section shall be installed and maintained in proper working condition and repair and in accordance with the requirements of section 10-234(j) and of the North Carolina Plumbing Code.

(n) *Cooking.* Every establishment covered under this section shall be provided with a kitchen that is in a location accessible to all rooming units and which meets the requirements of section 10-234(a) (4). Cooking is strictly prohibited in any rooming unit. Charcoal and gas grills are prohibited within ten feet of any portion of any establishment covered under this section, except fixed mounted gas grills installed according to the manufacturer's instructions where the grill and piping are stationary and the L.P. tank is located at grade level are permitted.

(o) *Garbage, rubbish and ashes.* Every establishment covered under this section shall be provided, in a location accessible to all rooming units, with an adequate number of receptacles or a stationary bulk refuse container to contain all garbage, rubbish and ashes that may accumulate during the usual interval between the collection thereof. All such receptacles and any stationary bulk refuse container shall be maintained at all times in good order and repair. All such receptacles and any stationary bulk refuse container shall conform to the standards set for such equipment as provided in chapter 58

(p) *Entrances and exits.* All entrances and exits must meet the standards set forth in the North Carolina Building Code which is in effect at the time of construction. Every rooming unit in an establishment covered under this section shall have safe, unobstructed means of egress leading to safe and open space at ground level.

(q) *Painting.* Painting of all establishments covered under this section shall be in compliance with section 10-234(k).

(r) *Fire and safety standards.* The fire and safety standards established in section 10-234(l) shall apply to all establishments covered under this section.

(s) *Safety and maintenance requirements.* The general requirements relating to safety and maintenance established in section 10-234(f) shall apply to all establishments covered under this section.

(t) *Property maintenance standards.* The property maintenance standards established in section 10-234(h) shall apply to all establishments covered under this section.

(u) *Electrical standards.* The electrical standards established in section 10-234(i) shall apply to all establishments covered under this section. (Code 1982, § 6-155; Ord. No. 10064, § 2, 2-7-1994)

Sec. 10-236. - Responsibilities of occupants.

(a) *Sanitary maintenance.* Every occupant of a dwelling, dwelling unit or rooming unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit or rooming unit and the premises thereof which he or she occupies and controls. A clean and sanitary condition shall include, but is not limited to, the following standards:

- (1) Floors, floor coverings and other walking surfaces shall be kept clean and free of dirt, filth, garbage, human and animal wastes, litter, refuse and any other unsanitary matter;
- (2) Walls, ceilings, windows and doorways shall be kept clean and free of dirt, greasy film, soot and any other unsanitary matter;
- (3) Plumbing fixtures shall be kept in a clean and sanitary condition; and no material shall be deposited in any such fixture which may result in the obstruction of such fixture or of any lines connected thereto. Every occupant shall be responsible for the exercise of reasonable care in the proper use and operation of all plumbing fixtures; and
- (4) All screens on windows and doors shall be maintained in good condition. This subsection shall not be construed as requiring any occupant to furnish and install, or cause to be installed, screens on windows or doors at any dwelling, dwelling unit or rooming unit.

(b) *Extermination of insects, rodents, etc.* Every occupant of a single dwelling unit shall be responsible for the extermination of insects, rodents or other pests therein or

on the premises. Any grounds and structures being used or occupied by such occupant shall also be maintained free of insects, vermin, and rodent harborage and infestation by generally accepted methods of extermination.

(c) *Garbage and rubbish.* Every occupant of a (single) dwelling, dwelling unit (or rooming unit) shall dispose of all garbage and refuse in a clean and sanitary manner and place it in a proper receptacle as required by chapter 14. Discarded or abandoned articles of such bulk as to preclude disposal in such receptacles and refuse not otherwise collected by the city as defined in chapter 58 shall be conveyed by the occupant to the city landfill or some other approved private landfill.

(d) *Heat.* Where the heating facilities of any dwelling, dwelling unit or rooming unit are under the control of the occupant thereof, it shall be the responsibility of the occupant to operate such facilities in order to maintain above-freezing temperatures at all times in all portions of the dwelling, dwelling unit or rooming unit and the premises thereof which he or she occupies and controls so as to prevent injury or damage to water pipes and plumbing.

(e) *Removal of required services, facilities, etc.* No occupant shall cause any service, facility, equipment or utility, which is required under this article, to be removed or shut off from, or discontinued for, any occupied housing let or occupied by him or her, except for such process, or during temporary emergencies when discontinuance of service is approved by the administrator.

(f) *Termination of occupancy.* So as to aid in preventing vandalism to the property, the occupant of a dwelling, dwelling unit or rooming unit shall, upon vacating, secure and lock all doors and windows and openings in the basement and any crawl space and shall leave the premises clean and free from all debris and trash.

(g) *Access for repairs.* Every occupant of a dwelling, dwelling unit or rooming unit shall give the owner thereof, or his or her agent or employee, access to any part of such dwelling, dwelling unit or rooming 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.

(h) *Cleanliness of sidewalks, alleys, ditches and street gutters.* Every occupant of any dwelling, dwelling unit or rooming unit bordering any street, lane or alley shall not deposit garbage or rubbish into the street gutters, alleys, or ditches abutting the premises. In any single-family dwelling or in any dwelling where the occupants of a particular dwelling unit or rooming unit have exclusive control over the rear yard, the occupants of such dwelling shall maintain in a clean and sanitary condition, free of garbage, rubbish, bulk trash, or other offensive material, both that portion of the sidewalk and the gutter that abuts the property and that portion of any alley that abuts the property and is bounded by the property lines of the adjoining properties

and the mid-point of such alley. Occupant shall be responsible for batteries for the smoke detectors and furnace filters that need replacing during their occupancy.

Sec. 10-237. - Responsibilities of owners.

(a) *Prohibited occupancy.* No owner shall occupy or lease or permit the subletting to another for occupancy any vacant or vacated dwelling, dwelling unit or rooming unit which does not comply with the provisions of this article, nor shall any owner let to another any vacant dwelling, dwelling unit or rooming unit unless it is reasonably clean, sanitary and fit for human occupation.

(b) *Number of occupants.* Every owner or agent of an owner shall advise, in writing, the occupant leasing or subletting property owned by him or her of the maximum number of occupants permitted in the dwelling, dwelling unit or rooming unit leased or rented.

(c) *Sanitary maintenance.* Every owner of a multifamily dwelling containing four or more dwelling units and every owner of a rooming house, residency hotel or other establishment covered by section 10-235 shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof. A clean and sanitary condition shall include, but is not limited to, the following:

(1) The exterior property areas of all premises shall be kept free of objects and materials, including abandoned or immobile motor vehicles, which may create a hazard to the health and safety of the occupants or surrounding community or which is a public nuisance.

(2) All sheds, barns, garages, fences and other appurtenant structures standing on the premises shall be kept in good repair.

(3) All yard spaces and other open areas adjacent to the dwelling shall be sloped, paved or otherwise constructed to properly drain water around or away from the premises.

(4) All required screens shall be furnished and installed in the dwelling and shall be maintained in good condition.

(5) Any high grass and noxious weeds shall be kept mowed or cut to a height of not more than six inches.

(d) *Garbage and rubbish.* For every multifamily dwelling containing four or more dwelling units and any rooming house, residency hotel or other establishment covered by section 10-235, the owner shall provide, in a location accessible to all dwelling occupants, an adequate number of receptacles or a stationary bulk refuse container into which garbage and rubbish from the dwelling unit or rooming unit receptacles may be emptied for storage between the days of collection as required by chapter 58. Any stationary bulk refuse container provided by the owner shall meet all of the capacity specifications as stated in chapter 58. The area surrounding the receptacles provided by the owner or the stationary bulk refuse container shall be maintained in such a way as to prevent the scattering of garbage or refuse on the ground.

(e) *Removal of required services, facilities, etc.* No owner or agent of an owner shall cause any service, facility, equipment or utility, which is required under this article, to be removed or shut off from, or discontinued for, any occupied housing let or occupied by him or her, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the administrator.

(f) *Ratproofing and pest extermination.* Every owner of a multifamily dwelling containing two or more dwelling units and every owner of a rooming house, residency hotel or other establishment covered by section 10-235 shall be responsible for the extermination of rodents, or other pests in all dwelling units or rooming units therein and in the shared public areas of the dwelling and premises thereof by an approved method. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure. Such extermination shall include, but is not limited to the following:

(1) Preventing the entrance by blocking or stopping up all passages, by which rats may secure entry from the exterior with rat impervious material;

(2) Preventing the interior infestation by rat stoppage, harborage removal, the paving of basements, cellars and any other areas which are in contact with the soil, and such cleanliness as may be necessary to eliminate rat breeding places;

(3) Providing screens or such other devices for basement windows which might provide a point of entry for rodents.

(g) *Cleanliness of sidewalks, alleys, and gutters.*

(1) The owner of any premises bordering any street, lane or alley shall not allow garbage or rubbish to be deposited into the street, gutters, or alleys abutting the premises.

(2) The owner or operator of any dwelling containing more than one dwelling unit and the owner of any rooming house, residency hotel or other establishment covered by section 10-235 shall maintain in a clean and sanitary condition, free of garbage, rubbish, bulk trash, or other offensive material, both that portion of the sidewalk and the gutter that abuts the property and that portion of any alley that abuts the property and is bound by the property lines of the adjoining properties and the mid-point of mid-point of.....

Sec. 10-238. HOUSING APPEALS BOARD; CREATION, COMPOSITION, POWERS AND PROCEDURES.

(a) There is hereby created and designated a board which shall be known as the "Housing Appeals Board" hereafter may be referred to as "board." The Housing Appeals Board is established pursuant to N.C.G.S. 160A-446, special legislation adopted for the City regarding the board and council ordinance #8028 adopted by council on April 2, 1990. Ordinance #8028 is not codified in this code.

(b) The Board shall consist of five (5) members and 3 alternates who shall be appointed by the council.

(c) The Housing Appeals Board may exercise any and all powers prescribed by general law and by special acts not in conflict therewith and shall perform duties directed by the Council which are consistent with said laws.

(d) The Housing Appeals Board shall adopt its own rules of procedure and elect its own officers. Such rules shall be consistent with the laws of North Carolina and the ordinances and policies of the council.

Sec. 10-239. - Enforcement.

(a) *Duties of administrator.* It shall be the duty of the administrator:

(1) To investigate the dwelling conditions, and to inspect dwellings, dwelling units, and rooming units located in the city, in order to determine which of the same are unfit for human habitation, and for the purpose of carrying out the objectives of this article with respect to such dwellings, dwelling units and rooming units;

(2) 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;

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

(4) To perform such other duties as may be herein prescribed.

(b) *Powers of administrator.* The administrator is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others herein granted.

(1) To investigate the dwelling conditions in the city in order to determine which dwellings herein are unfit for human habitation;

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

(3) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in such a manner as to cause the least possible inconvenience to the person in possession;

(4) To appoint and fix the duties of such officers, agents, and employees as he or she deems necessary to carry out the purposes of this article; and

(5) To delegate any of his or her functions and powers under this article to other officers and other agents.

(c) *Inspections; duty of owner and occupants.* For the purpose of making inspections, the administrator is hereby authorized to enter, examine and survey at all reasonable times, all dwellings, dwelling units and rooming units and premises as defined in this article. The owner, occupant or other person in charge of any dwelling, dwelling unit or rooming unit shall, upon being presented with proper credentials, give the administrator free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purpose of such inspection, examination and survey. If the owner or occupant refuses admission for this purpose, admission may be obtained through the provisions of G.S. §15-27.2 et seq.

(d) *Emergency repairs.* Upon a showing that a condition in a dwelling or dwelling unit poses an immediate threat of danger or harm to the safety of the occupants in such dwelling or dwelling unit, the housing appeals board shall adopt an ordinance ordering the administrator to repair such condition. The owner of and parties in interest in such dwelling or dwelling unit shall be given at least 72 hours' notice prior to the making of any repairs or improvements by the administrator. The amount of the cost of such repairs, alterations or improvements shall be a lien against the real property upon which such cost was incurred, which lien shall be filed, have the same priority and shall be collected as provided by G.S. §160A-216 et seq.

(e) Preliminary investigation; notice, hearing.

(1) Whenever a petition is filed with the administrator by a public authority or by at least five residents of the city charging that any dwelling, dwelling unit or rooming unit is unfit for human habitation, or whenever it appears to the administrator, upon inspection, that any such place is unfit for human habitation he or she shall, if his or her preliminary investigation disclosed a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling, dwelling unit or rooming unit a complaint stating the charges and containing a notice that a hearing will be held before the administrator at a place therein fixed, not less than ten nor more than 30 days after the serving of such complaint.

(2) It shall be unlawful for the owner or the agent of any owner upon whom such complaint has been served to permit any person to occupy any such dwelling, dwelling unit or rooming unit which, at the time of service of such complaint is vacant, or which shall subsequently become vacant, until such owner or the agent of such owner shall have obtained from the administrator a housing certificate. The administrator shall issue such housing certificate upon a determination that the dwelling unit complies in all respects with the provisions of this article.

(3) 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.

(4) Notice of such hearing shall also be given to at least one 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.

(5) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the administrator.

(f) *Service of complaints and orders.* Complaints or orders issued by the administrator shall be served upon persons either personally or by registered mail or certified mail and, in addition thereto, may be served by regular mail. When service is made by registered or

certified mail and, in addition thereto, regular mail and the registered mail or certified mail is unclaimed but the regular mail is not returned by the post office within ten days after mailing, service shall be deemed sufficient under this section and the general statutes. If the whereabouts of persons is unknown and cannot be ascertained by the administrator in the exercise of reasonable diligence, the administrator shall make an affidavit to that effect, and then the serving of such complaint or order upon the unknown owner or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this article. When service is made by publication, a notice of the pending proceeding shall be posted in a conspicuous place on the premises thereby affected.

(g) *Authorized agent.* Each owner of rental property located within the city shall authorize a person residing either in the city or the surrounding counties of Durham, Wake, Orange, Person, Granville or Chatham to serve as his or her agent for the purpose of accepting service of process under this section. The owner shall provide, on a form supplied by the Department of Neighborhood Improvement Services (“NIS”), the authorized agent's name, address, and phone number. The owner shall notify NIS of any changes in the information provided not less than ten days after such changes have occurred. Nothing in this section shall be interpreted to require an owner to designate an agent to accept service of process where the owner of the rental property resides within the city or one of the surrounding counties referenced herein. The initial failure of an owner to authorize an agent, as required in this section, will not result in the imposing of a civil penalty as authorized in subsection (r) of this section; however, a penalty will be imposed if an owner still fails to authorize an agent after being notified by the administrator that such a designation is required under this article.

(h) *Notice of lis pendens.* Any complaint and notice or order issued pursuant to this article may be filed in the notice of lis pendens, with a copy of the complaint and notice or order attached thereto, in the office of the clerk of superior court of the county. The notice of lis pendens and a copy of the complaint and notice or order shall be indexed and cross-indexed in accordance with the indexing procedures of G.S. §1-117. From the date and time of indexing, the complaint and notice or order shall be binding upon the successors and assigns of the owners of and parties in interest in the building or dwelling. A copy of the notice of lis pendens shall be served upon the owners and parties in interest in the building or dwelling at the time of filing in accordance with G.S. §160A-428 and G.S. §160A-445. The clerk may cancel the notice of lis pendens upon a showing by the administrator that the action in which the complaint and notice or order was issued has been settled, discontinued, or abated.

(i) *Findings of facts; issuance of order to repair, demolish, etc.* If, after such notice and hearing as provided for in subsection (e) of this section, the administrator determines that the housing under consideration is unfit for human habitation under the terms of this article, he or she shall state in writing his or her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of such house can be made at a cost not to exceed 50 percent of the value of the house, requiring the owner, within a time specified in the order by the administrator, to repair, alter or improve such house to render it fit for human habitation when the administrator makes two or more of the findings contained in this subsection. In the alternative, the administrator may require the owner, within a time specified in the order, to vacate and close the house. In determining whether to order the owner to repair, alter or improve the house the administrator shall make findings as to whether allowing the house to be and remain in a vacated and closed status would be inimical to the health, safety and 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 attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, or would render unavailable a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in the community.

(2) If the repair, alteration or improvement of such housing cannot be made at a cost not to exceed 50 percent of the value of the housing, requiring the owner, within the time specified in the order by the administrator to repair, alter or improve such housing to render it fit for human habitation or to demolish and remove such housing. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the city and the historic district commission determines, after a public hearing, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. §160A-400.14(a).

(j) *Failure to comply with order.*

(1) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, dwelling unit or rooming unit, the administrator may cause such dwelling, dwelling unit or rooming unit to be repaired, altered or improved or to be vacated and closed; and the administrator may cause to be posted on the main entrance of any dwelling, dwelling unit or rooming unit 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.

(2) If the owner fails to comply with an order to remove or demolish the dwelling, the administrator may cause such dwelling to be removed or demolished; provided, however, that the duties of the administrator as set forth in subsections (a) and (b) of this section shall not be exercised until the housing appeals board shall have by ordinance ordered the administrator to proceed to effectuate the purpose of this section with respect to the particular property which the administrator shall have found to be unfit for human habitation and which property 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.

(3) If the administrator shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subsection (i)(1) of this section, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of six months pursuant to the order, then if the housing appeals board shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the city in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this state, then in such circumstances the housing appeals board may, after the expiration of such six-month 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 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 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 50 percent of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the administrator shall effectuate the purpose of the ordinance.

(k) ***Appeal.*** Where compliance with an order of the administrator, or where the literal application of the provisions of this article, would appear to cause undue hardship on an owner or other party in interest, or when it is claimed that the true intent and meaning of this article or any of the minimum standards or requirements herein have been wrongly interpreted, the owner or other party in interest may appeal from the order of the administrator to the housing appeals board.

(1) Notice of appeal shall be in writing and filed with the housing code administrator within ten days after service of the order of the administrator, and shall be on forms provided by the administrator. The appeal shall be placed on the agenda for hearing by the housing appeals board at its next regular meeting.

(2) The housing appeals board upon such appeal, and after a hearing, may extend the time for compliance with the administrator's order, or vary the application of any provisions of this article in hardship cases when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this article or the public interest, or when, in its opinion the interpretation of the administrator was wrong and should be modified or reversed. In hardship cases, a hardship peculiar to the appellant must be shown.

(3) A decision of the housing appeals board to extend the time for compliance with an order of the administrator, or to vary the application of any provision of this article, or to modify an order of the administrator, shall specify in what manner such extension, variation, or modification is made, the conditions upon which it is made, and the reasons therefore.

(4) Every such decision of the housing appeals board shall be in writing, and shall be promptly filed in the office of the administrator, and shall be open to public inspection; a certified copy shall be sent by mail, or otherwise, to the appellant.

(5) If a decision of the housing appeals board reverses or modifies a refusal, order or disallowance of the administrator, or varies the application of any provision of this article, the administrator shall immediately take action in accordance with such decision.

(6) Nothing in this subsection shall be construed to prevent an owner or other party in interest from exercising the right of petition for judicial review of an order of the administrator, as provided by general law and subsection (l) of this section.

(l) *Petition to superior court.* Any person aggrieved by an order issued by the administrator or a decision rendered by the housing appeals board may petition the superior court for an injunction restraining the administrator from carrying out the order or decision. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearing on the petition shall be as provided in G.S. §160A-446(f).

(m) *In rem action by administrator; placarding.* Barring a petition having been filed under subsection (l) of this section, after the failure of an owner of a dwelling, dwelling unit or rooming unit to comply with an order of the administrator issued pursuant to the provisions of this article, and upon adoption by the housing appeals board of an ordinance authorizing

and directing him or her to do so, as provided by G.S. §160A-443 and subsection (j) of this section, the administrator shall proceed to cause such dwelling, dwelling unit or rooming unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by the ordinance of the housing appeals board, and shall cause to be posted on the main entrance of such dwelling, dwelling unit or rooming unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building is prohibited and unlawful." The occupation of a building so posted shall constitute a misdemeanor.

(n) *Costs of lien on premises.*

(1) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the administrator 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 provided by G.S. §160A-216 et seq.

(2) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the administrator shall be a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment.

(3) If the dwelling is removed or demolished by the administrator, he or she shall sell the materials of the dwelling and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the administrator, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

(o) *Cancellation or reduction of demolition liens in limited circumstances.*

(1) The city manager may authorize the reduction or cancellation of the amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the administrator which is a lien against the real property upon which the cost was incurred as provided for in this article in the following circumstances:

a. When the owner of the property completes construction of a dwelling on the property to be used for affordable housing. The owner must also obtain and provide a certificate of compliance from the city/county inspections department.

b. When the owner of the property conveys the property subject to the lien to a person who completes construction of a dwelling on the property to be used for affordable housing. Completion of construction shall be evidenced by a certificate of compliance issued by the city/county inspections department.

(2) The city council may, in its discretion, reduce or cancel the cost described in this subsection, when the cost is past due, the owner offers to convey the property to the city and the city council agrees to accept the deed to the property in payment of the cost.

(3) The city manager shall establish a policy to implement this subsection. The policy shall define "affordable housing," and contain criteria for which owners may apply for the reduction or cancellation of a lien under this subsection. The policy shall include other provisions designed to effectuate the purposes of this subsection. Such other provisions may include time limits for completion of construction of the dwelling, descriptions of covenants to be incorporated in the title to property conveyed to ensure it will be used for affordable housing; and requirements that a lien be in effect for a specified period of time before the manager will consider reducing or canceling a lien under this subsection. For each instance of exercising the authority to reduce or cancel a lien under this subsection, the city manager shall make a record of the reasons why such action is appropriate.

(4) In this subsection (o), references to "this subsection" mean "this subsection (o)."

(p) *Notice to affordable housing agencies.* Whenever a determination is made pursuant to subsection (i) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this article, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the administrator, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The city clerk shall certify the mail of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order required the administrator to wait 45 days before causing removal or demolition.

(q) *Alternative remedies.* Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise, and the enforcement of any remedy

provided herein shall not prevent the enforcement of any other remedies provided herein or in other ordinances or laws.

(f) *Conflict with other provisions.* In the event any provision, standard or requirement of this section is found to be in conflict with any other applicable law, code or ordinance pertaining to housing, 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.

Section 10-240. *Violations; penalty; fees.*

(a) Offenses.

- (1) It shall be unlawful for the owner of any dwelling, dwelling unit or rooming 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 administrator duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense.
- (2) It shall be unlawful for the owner or agent of the owner in charge of such dwelling, dwelling unit or rooming unit with respect to which an order has been issued pursuant to this article, to occupy or permit the occupancy of the same in a dilapidated or deteriorated condition found to be unfit for human habitation in violation of such order for its repair, alteration or improvement or its vacation, closing or demolition, and each day that such unlawful occupancy continues after the expiration of the time prescribed in the order to repair, alter, improve, vacate, close or demolish such dwelling, dwelling unit or rooming unit shall constitute a separate and distinct offense.
- (3) The violation of any provision of this article shall constitute a misdemeanor and shall be punishable in accordance with section 1-9. The maximum fine shall be \$500.00, and the maximum term of imprisonment shall be 30 days.

(b) Civil Penalties

(1) Any owner of a dwelling or dwelling unit, except an owner who occupies the dwelling as his or her principal place of residence, who fails to comply with any of the provisions of this article shall be subject to a civil penalty.

(a) The initial civil penalty shall be \$300 and an additional civil penalty of \$300 shall be imposed each month. The penalty shall be imposed until the dwelling or dwelling unit is brought into compliance. However, the maximum cumulative civil penalty shall not exceed \$5,000. This penalty may be recovered by the city in a civil action in the nature of debt if the owner does not pay the same within 30 days after the initial day of noncompliance.

(b) The administrator shall formulate written guidelines to use in assessing and calculating civil penalties. Such written guidelines shall authorize the city manager to discharge certain penalties deemed uncollectible after good faith efforts have been made to collect such penalties.

(2) The city manager may agree, in writing only, to release, in whole or in part, a subsequent owner from liability for a civil penalty imposed pursuant to subsection **(r)(3)** of this section if the civil penalty was imposed against the subsequent owner due to a previous owner's failure to bring the property into compliance. When this situation exists, a release in whole or part may occur if the subsequent owner voluntarily agrees, as consideration for the release, to bring the property into compliance within an agreed upon timeframe. However, if the subsequent owner fails to comply with the agreement then the civil penalty shall be imposed as if the agreement was never entered into and shall be computed from the first day of noncompliance.

(c) Fees.

(1) The owner of any dwelling, dwelling unit or rooming unit who fails to repair or vacate and close it, or demolish or remove it, upon order of the administrator duly made and served as herein provided, within the time specified in such order, shall be subject to an administrative fee set by the city council for noncompliance. This fee allows the city to recover some of its administrative costs incurred due to the owner's failure to comply with the administrator's order described herein.

(6) Any owner of a dwelling or dwelling unit, except an owner who uses the dwelling as his or her principal place of residence, who requests a re-inspection after failing an initial inspection shall be subject to a re-inspection fee when the re-inspection shows that the owner's dwelling still fails to comply with the provisions of this article. The re-inspection fee shall not be imposed when the owner's dwelling

passes the re-inspection. Re-inspection fees adopted by the city council shall be charged.

(d) Miscellaneous remedies

(1) If any occupant fails to comply with an order to vacate a dwelling, the administrator may file a civil action in the name of the city 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 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 administrator produces a certified copy of an ordinance adopted by the housing appeals board pursuant to subsection (j) of this section authorizing the officer 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 taken as provided in G.S. §7A-227. An action to remove an occupant of a dwelling who is a occupant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the housing appeals board has ordered the administrator to proceed to exercise his or her duties under subsection (j) of this section to vacate and close or remove and demolish the dwelling.

(2) Nothing in this section shall be construed as a waiver of the housing certificate requirements of subsection (e) of this Section 10-239.

Section 3. This ordinance shall be in full force and effect from the date of passage.