
Chapter IV HOUSING STANDARDS

ARTICLE I. IN GENERAL

Sec. 4-1. Finding; purpose of chapter.

Pursuant to G.S. 160A-441, it is declared that there exist in the town:

- (1) 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; and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety, morals, and otherwise inimical to the welfare of the residents of the town.
- (2) Certain abandoned structures which, due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions contributing to a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities, are a health and safety hazard and are otherwise inimical to the welfare of the town.
- (3) In order to protect the health, safety, and welfare of the residents of the town as authorized by G.S. 160A-441 et seq., 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, and in addition to provide for the regulation of abandoned structures, as expressly authorized by G.S. 160A-441 and 160A-444.

Sec. 4-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Whenever the terms 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."

Abandoned structure means any dwelling, dwelling unit, habitable room, multiple dwelling, room unit, rooming house, structure or manufactured/mobile home which is a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities.

Basement means a portion of a dwelling, structure or abandoned structure which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Board means the city board of appeals on dwellings, buildings and property standards established by this chapter.

Building means any structure enclosed and isolated by exterior walls constructed or used for, but not limited to, residence, business, industry or other public or private purposes, or accessory hereto, and also tents, lunch wagons, dining cars, trailers and similar structures, whether stationary or movable.

Cellar means a portion of a dwelling, structure or abandoned structure 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 means a dwelling, structure or abandoned structure that is unfit for human habitation and can 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 percent of its value, as determined by findings of the code enforcement officer.

Dilapidated means a dwelling, structure or abandoned structure that is unfit for human habitation and cannot 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 percent of its value, as determined by findings of the code enforcement officer.

Dwelling means any building, structure, manufactured/mobile home 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 defined in this section, shall not be regarded as a dwelling. The term shall include within its meaning the terms "rooming house" and "rooming unit," as defined in this section.

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

Extermination means 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 code enforcement officer.

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

Governing body means the town commissioners of the town.

Habitable space or room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

Infestation means the presence, within or around a dwelling, structure or abandoned structure 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 to the public.

Code enforcement officer means the code enforcement officer of the town or any authorized agent of the code enforcement officer.

Multiple dwelling means any dwelling containing more than two dwelling units.

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

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

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

- (1) Shall have title to any dwelling, dwelling unit, rooming unit, structure or abandoned structure with or without accompanying actual possession thereof.
- (2) Shall be a mortgagee of record for any dwelling, dwelling unit, rooming unit, structure or abandoned structure; or
- (3) Shall have charge, care or control of any dwelling, dwelling unit, rooming unit, structure or abandoned structure as owner or agent of the 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 were the owner.

Party, parties in interest means all persons who have interests of record in a dwelling, dwelling unit, rooming unit, structure or abandoned structure, and any persons who are in possession of such structures.

Plumbing means 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 means the city code enforcement officer or any officer who is in charge of any department or branch of the government of the city or the state relating to building regulations or other activities concerning dwellings or structures in the city.

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

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

Rubbish means combustible and noncombustible waste materials, except garbage and ashes, and the term shall include, but not be limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, metals, mineral matter, glass, crockery and dust.

Structure means anything constructed or erected, the use of which requires location on the land, or attachment to the land or something having a permanent location on the land such as billboards, signs or fences.

Substandard dwelling or structure means a dwelling, dwelling unit, multiple dwelling, apartment house, structure, abandoned structure or any other space used or intended to be used as a habitable living space in any building or structure which does not meet the basic minimum requirements of this chapter for such use.

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

Temporary housing means any tent, 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.

Tenant means any person who alone or jointly or severally with others occupies a residential building under a lease or holds a leasehold interest in a building.

Unfit for human habitation means conditions existing in a dwelling, dwelling unit, rooming house, rooming unit, structure or abandoned structure 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.

State law reference(s)—Definitions regarding minimum housing standards, G.S. 160A-442.

Sec. 4-3. 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 occupies and controls.
- (c) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his 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.

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- (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 such fixtures.
 - (e) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit. See the penalty provisions of section 4-171.
 - (f) *Care of premises.*
 - (1) It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of such residential property for the open storage of any icebox, refrigerator, stove, glass, building material, building rubbish or similar items.
 - (2) It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items, as listed in subsection (f)(1) of this section including, but not limited to, weeds, dead trees, trash, garbage, etc., upon notice from the code enforcement officer.
 - (3) Yards and courts shall be kept clean and free of physical hazards, rubbish, trash, garbage, junked vehicles, vehicle parts and other similar material.
 - (4) Every premises shall be provided with vehicular access to and from the premises at all times by an abutting public or private street.
 - (5) No occupant shall obstruct in any manner any means of egress from any portion of the premises.
 - (6) No occupant shall place on the premises any material which causes a fire hazard or otherwise endangers the health or safety of any occupants of such building.

State law reference(s)—Exercise of police power authorized, G.S. 160A-441.

Sec. 4-4. Board of adjustment designated as housing appeals board.

The four members and one alternate member of the board of adjustment who are appointed by the town commissioners, are designated to serve as the housing appeals board for the building inspection jurisdiction of the town in accordance with G.S. 160 A-446.

- (1) *Board established.* To perform the function in this chapter assigned to it, and to be vested with all authority in this chapter given it, there is hereby established by the city council a board to be called the housing appeals board, which shall consist of five members.

Of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, one for a term of three years, and thereafter they shall be appointed for terms of three years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from regular meetings of the board shall, at the discretion of the town commissioners render any such member liable to immediate removal from office.

Three members of the board shall constitute a quorum; no board member shall act in a case in which he has a personal interest.

The board shall perform its duties in accordance with G.S. 160A-446. The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this chapter and Code.

The board shall meet at regular intervals, to be determined by the chairman, or in any event, the board shall meet as required to dispatch its business.

- (2) *Minimum dwelling and building standards; powers and duties.* The board, after a hearing, may vary the application of any provision of this chapter to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of this chapter or public interest, or when, in its opinion the interpretation of the building inspector should be modified or reversed.

A decision of the board to vary the application of any provision of this chapter or to modify any order of the building inspector shall specify in what manner such variation or modification is made, the conditions upon which it is made and the reasons therefor.

Every decision of the board shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the building inspector and shall be open to public inspection.

The board shall in every case reach a decision without unreasonable or unnecessary delay.

If a decision of the board reverses or modifies a refusal, order, or disallowance of the building inspector, or varies the application of any provision of this chapter, the building inspector shall immediately take action in accordance with such decision.

- (3) *Additional powers of board and building inspector.* The board and building inspector are hereby further authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

- a. To investigate the housing conditions and structures in the city in order to determine which housing therein is unfit for human habitation and which structures are dangerous.
- b. To administer oaths, affirmations examine witnesses and receive evidence.
- c. To enter upon premises for the purpose of making examinations, provided, that such entries shall be made at reasonable times and in such manner as to cause the least possible inconveniences to the persons in possession.
- d. To appoint and fix the duties of such officers, agents and employees as it or he deems necessary to carry out the purpose of this chapter, subject to the authority of the town commissioners and the town manager.
- e. With respect to the building inspector, to delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

- (4) *Noxious weeds and similar nuisances; powers and duties.* The board, after a hearing, may vary the application of any provision of G.S. Ch. 97 to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of that chapter of public interest, or when, in its opinion the interpretation of the building inspector should be modified or reversed.

A decision of the board to vary the application of any provision of G.S. Ch. 97 or to modify any order of the building inspector shall specify in what manner such variation or modification is made, the conditions upon which it is made and the reasons therefor.

Every decision of the board shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the building inspector and shall be open to public inspection.

The board shall in every case reach a decision without unreasonable or unnecessary delay.

If a decision of the board reverses or modifies a refusal, order, or disallowance of the building inspector, or varies the application of any provision of this chapter, the building inspector shall

Sec. 4-5. Violations.

- (a) It shall be unlawful for the owner of any dwelling, dwelling unit, structure or abandoned structure to fail, neglect or refuse to repair, alter or improve it, or to vacate and close and remove or demolish it, on order of the code enforcement officer duly made and served as provided in this chapter, within the time specified in the order. Each day that any such failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense.
- (b) It shall be unlawful for the owner of any dwelling, dwelling unit, structure or abandoned structure with respect to which an order has been issued pursuant to section 4-67, to occupy or permit the occupancy of it after the time prescribed in the order for its repair, alteration or improvement, or its vacation and closing. Each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

Sec. 4-6. Conflict with other provisions.

If 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 town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

Sec. 4-7. Forms.

Sec. 1. COMPLAINT AND NOTICE OF HEARING BEFORE CODE ENFORCEMENT OFFICER UNDER HOUSING CODE.

TO: Owners and parties in interest in the dwelling (unit) located at _____ in the Town of Broadway, North Carolina.

YOU ARE HEREBY NOTIFIED that the dwelling (unit) located at the place designated above is in a condition that appears to be unfit for human habitation and to violate the Town of Broadway Housing Code in the following ways:

- 1. (Specify the violation and the applicable Housing Code Section.)
- 2. Etc.

YOU ARE FURTHER NOTIFIED that a hearing will be held before the Code Enforcement Officer of the Town of Broadway at his office in the Town of Broadway Town Hall at _____ o'clock, _____m. on the ____ day of _____ 20__ (a time not less than ten nor more than 30 days after serving of the complaint) for the purpose of finding the facts as to whether or not the condition of such building falls within the scope of the above-mentioned sections of the Housing Code. At the hearing, you shall be entitled to offer such evidence which is relevant or material to the questions sought to be determined or the remedies to be effected.

YOU ARE FURTHER NOTIFIED that if, upon such hearing, the Code Enforcement Officer shall find that the conditions in the above-described dwelling (unit) do in fact violate the Housing Code, and do in fact render such

dwelling (unit) unfit for human habitation, the Code Enforcement Officer will issue an order in writing directed to the owner of such dwelling (unit) requiring the owner to remedy these conditions by repairing the same or by vacating, demolishing or removing the same, or by taking such other steps as may be necessary to remedy these conditions. The Code Enforcement Officer may make such other orders and take such other procedures as are authorized under the Housing Code and the General Statutes of North Carolina.

Further information as to this matter may be obtained by contacting the undersigned.

This the ____ day of _____, 20 ____.

CODE ENFORCEMENT OFFICER

Sec. 2. AFFIDAVIT.

Note: If the whereabouts of an owner are unknown, or if known but attempts to serve by certified mail are returned, this affidavit form should be executed by the Code Enforcement Officer prior to publication in a newspaper. This form can be used in connection with publication of the complaint (section 1) or the findings of fact and order (section 4).

File No. _____

STATE OF NORTH CAROLINA)	
COUNTY OF)	AFFIDAVIT
TOWN OF BROADWAY	SERVICE BY PUBLICATION
IN RE STRUCTURE LOCATED AT	

(Name of Code Enforcement Officer), being first duly sworn, deposes and says:

1. I am the Code Enforcement Officer of the Town of Broadway duly authorized to enforce the Town of Broadway Housing Code against the above-entitled dwelling (unit); and
2. That [name of owner(s) of dwelling unit] (is) (are) the owner(s) of the above-entitled dwelling (unit); and
3. That, according to my information and belief of the Code Enforcement Officer, the whereabouts of the owner(s) are unknown and cannot be ascertained by the Code Enforcement Officer in the exercise of reasonable diligence or are known but attempts to serve by certified mail are refused; and
4. That service of the (complaint) (findings of fact and order) must be made by publication in a newspaper having general circulation in the City of Sanford, as authorized by G.S. 160A-445.

CODE ENFORCEMENT OFFICER

Sworn to and subscribed before me, this, the ____ day of _____, 19 ____.

NOTARY PUBLIC

My Commission Expires:

Sec. 3. PROOF OF SERVICE; COMPLAINT AND NOTICE OF HEARING.

Service of the attached Complaint and Notice was made on the ____ day of _____, 19____, by:

1. Delivering a copy of Complaint and Notice to _____ at _____.
2. Mailing a copy of Complaint and Notice by registered or certified mail to _____ at _____.
3. The name or whereabouts of the owner were unknown and could not, after due diligence, be discovered, or are known but attempts to serve by certified mail are refused. This Notice and Complaint was served by publication after proper affidavit, as authorized by G.S. 160A-445 and by posting a copy thereof on the outside of dwelling (unit) located at _____ on the date mentioned above (specify date of posting if different from above).

DATE	CODE ENFORCEMENT OFFICER
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NOTE: If the complaint is served by registered or certified mail, keep the return receipt with this form. If the complaint is served by publication, keep the publisher's affidavit of publication with this form.

Sec. 4. FINDINGS OF FACT AND ORDER.

Town of Broadway Code Enforcement Office
103 N Main Street
Broadway, North Carolina 27505
(919) 258-9922

TO: Owners and parties in interest in the dwelling or building located at _____, in the Town of Broadway, North Carolina. COMPLAINT# _____.

OWNER: .

The undersigned Building Inspector/Code Enforcement Officer of the Town of Broadway pursuant to law, conducted a hearing at the time and place stated in the Notice heretofore issued and served, or at a time to which said hearing was continued with previous notice to the above-named owners and parties in interest or their agents or attorney. At said hearing the answer, if any, filed by the owners and parties in interest was read and considered, and the evidence, contentions, and views of the owners and parties in interest were carefully analyzed and considered by the undersigned. In addition to other evidence presented, the undersigned personally inspected the building above described and referred to, and such inspection and examination has been considered, along with the other evidence offered, at this hearing.

Upon the record and all of the evidence offered and contentions made the undersigned Building Inspector/Code Enforcement Officer does hereby find the following facts, namely:

1. The above named owners and parties in interest with respect to the building located at the place specified above were duly served as required by law with written Complaint and Notice of Hearing which set forth the complaint and charges that the said dwelling or building located at the above address is abandoned and uninhabited and is in such condition as appears to constitute a fire or safety hazard or dangerous to life, health, or other property, or to be a public nuisance, and the particulars thereof, and fixing a time and place for a hearing upon such complaint as provided by law; and at such hearing the following owners, persons in interest, or their agents or attorneys, were present and participated therein, to-wit:
2. That the building above described is in need of repair, alteration, or improvement and is unfit for human habitation, by reason of the conditions found to be present and to exist in and about said building.

THEREFORE, IT IS ORDERED:

That the owners of said building above named and designated by and (is/are) hereby ordered and required to abate the nuisance and remove the hazards herein found to exist by repairing said structure in accordance with Town of Broadway Minimum Housing Ordinance or by demolishing and removing said building from the premises by a date not later than the

This is the _____ day of _____, 19__.

CODE ENFORCEMENT OFFICER

Sec. 5. PROOF OF SERVICE: FINDINGS OF FACT AND ORDER OF CODE ENFORCEMENT OFFICER.

Service of the attached Findings of Fact and Order was made on the _____ day of _____, 19__, by:

- 1. Delivering a copy of Findings of Fact and Order to _____ at _____.

OR

- 2. Mailing a copy of Findings of Fact and Order by certified or registered mail to _____ at _____.

OR

- 3. The name or whereabouts of the owner were unknown and could not, after due diligence, be discovered. This Findings of Fact and Order was served by publication, after proper affidavit, as authorized by G.S. 160A-445, and by posting a copy thereof on the outside of the dwelling located at _____ on the date mentioned above (specify date of posting, if different from above).

DATE	CODE ENFORCEMENT OFFICER
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NOTE:

- 1. If the Findings of Fact and Order are served by certified or registered mail, keep the return receipt with this form. If the Findings of Fact and Order are served by publication, keep the publisher's affidavit of publication with this form.
- 2. If the whereabouts of the owner are unknown, publication should not be undertaken until the Code Enforcement Officer has executed an affidavit to that effect (see section 2).

Sec. 6. A RESOLUTION DIRECTING THE TOWN OF BROADWAY ATTORNEY TO PETITION THE SUPERIOR COURT FOR AN ORDER REQUIRING THE OWNER OF CERTAIN PROPERTY TO COMPLY WITH THE HOUSING CODE AND THE ORDER OF THE CODE ENFORCEMENT OFFICER ISSUED PURSUANT THERETO.

WHEREAS the Town Commissioners of the Town of Broadway finds that the dwelling herein described is unfit for human habitation under the provisions of the Town of Broadway Housing Code, and that all of the procedures of the Town of Broadway Housing Code have been complied with; and

WHEREAS the owner of this dwelling has failed to comply with a lawful order of the Code Enforcement Officer to repair the same to meet the requirements of the Town of Broadway Housing Code, or to demolish the same, within the time therein prescribed;

NOW, THEREFORE, BE IT RESOLVED by the Town Commissioners of the Town of Broadway that the Town of Broadway Attorney is hereby authorized and directed to proceed, as authorized by G.S. 160A-446(g), to petition the Superior Court of _____ County for an order requiring the owner of the dwelling located at _____ in the Town of Broadway, North Carolina, to take such steps as may be necessary to comply fully with the order of the Code Enforcement Officer issued on the _____ day of _____, 19__.

Adopted this _____ day of _____, 19__.

MAYOR

ATTEST:

CLERK

APPROVED AS TO FORM.

,
Town Attorney.

Sec. 7. AN ORDINANCE DIRECTING THE CODE ENFORCEMENT OFFICER TO REPAIR THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED UNTIL REPAIRED.

WHEREAS, the Town Commissioners of the Town of Broadway finds that the dwelling described herein is unfit for human habitation under the Town of Broadway Housing Code, and that all of the procedures of the Town of Broadway Housing Code have been complied with; and

WHEREAS, this dwelling should be repaired to meet the requirements of the Town of Broadway Housing Code, as directed by the Code Enforcement Officer, and should be placarded by placing thereon a notice prohibiting use for human habitation; and

WHEREAS, the owner of this dwelling has been given a reasonable opportunity to bring the dwelling up to the standards of the Town of Broadway Housing Code in accordance with G.S. 160A-443 pursuant to an order issued by the Code Enforcement Officer on _____, and the owner has failed to comply with the order:

NOW, THEREFORE, BE IT ORDAINED by the Town Commissioners of the Town of Broadway that:

Section 1. The Code Enforcement Officer is hereby authorized and directed to place a placard containing the legend:

"This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

On the building located at the following address:

Section 2. The Code Enforcement Officer is hereby authorized and directed to proceed to repair, alter or improve and (if necessary) to vacate and close the above-described dwelling in accordance with the order to the owner thereof dated the ____ day of _____, 19____, and in accordance with the Town of Broadway Housing Code and G.S. 160A-443.

Section 3. The cost of repairs, alterations or improvements or of vacating and closing shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed in the office of the Lee County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in G.S. 160A-216 et seq. Upon completion of the required repairs, alterations or improvements, the Code Enforcement Officer shall certify the cost of same to the Lee County Tax Collector.

Section 4. It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building therein declared to be unfit for human habitation.

Section 5. This ordinance shall become effective upon its adoption.

Adopted this ____ day of _____, 19__.

MAYOR

ATTEST:

CLERK

APPROVED AS TO FORM.

,
Town Attorney.

NOTE: This ordinance must be recorded in the office of the register of deeds in the county where the property is located and must be indexed in the name of the property owner in the grantor index.

Sec. 8. AN ORDINANCE DIRECTING THE CODE ENFORCEMENT OFFICER TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED.

WHEREAS, the Town Commissioners of the Town of Broadway finds that the dwelling described herein is unfit for human habitation under the Town of Broadway Housing Code, and that all of the procedures of the Town of Broadway Housing Code have been complied with; and

WHEREAS, this dwelling should be removed or demolished, as directed by the Code Enforcement Officer, and should be placarded by placing thereon a notice prohibiting use for human habitation; and

WHEREAS, the owner of this dwelling has been given a reasonable opportunity to bring the dwelling up to the standards of the Town of Broadway Housing Code in accordance with G.S. 160A-443 pursuant to an order issued by the Code Enforcement Officer on _____, and the owner has failed to comply with the order:

NOW, THEREFORE, BE IT ORDAINED by the Town Commissioners of the Town of Broadway that:

Section 1. The Code Enforcement Officer is hereby authorized and directed to place a placard containing the legend:

"This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

On the building located at the following address:

Section 2. The Code Enforcement Officer is hereby authorized and directed to proceed to remove or demolish the above-described dwelling in accordance with his order to the owner thereof dated the ____ day of _____, 19 __, and in accordance with the Town of Broadway Housing Code and G.S. 160A-443.

Section 3. The cost of removal or demolition shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed in the office of the Lee County Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in G.S. 160A-216 et seq.

Section 4. Upon completion of the required removal or demolition, the Code Enforcement Officer shall sell the materials of the dwelling and credit the proceeds against the cost of removal or demolition. The Code Enforcement Officer shall certify the remaining balance to the Lee County Tax Collector. If a surplus remains after sale of the materials and satisfaction of the cost of removal or demolition, the Code Enforcement Officer shall

deposit the surplus in the Superior Court where it shall be secured and disbursed in the manner provided by G.S. 160A-446.

Section 5. This ordinance shall become effective upon its adoption.

Adopted this ____ day of _____, 19__.

MAYOR

ATTEST:

CLERK

NOTE: This ordinance must be recorded in the office of the register of deeds in the county where the property is located and must be indexed in the name of the property owner in the grantor index.

APPROVED AS TO FORM.

,
Town Attorney.

Sec. 9. NOTICE OF APPEAL.

STATE OF NORTH CAROLINA)	
COUNTY OF)	BEFORE THE HOUSING BOARD OF APPEALS ON DWELLINGS, BUILDINGS AND PROPERTY STANDARDS
TOWN OF BROADWAY	
IN RE DWELLING LOCATED AT)	
	NOTICE OF APPEAL
)	

To the Housing Board of Appeals on Dwellings, Buildings and Property Standards and the Code Enforcement Officer of the Town of Broadway.

Take notice that the undersigned appeals to the Housing Board of Appeals on Dwellings, Buildings, and Property Standards of the Town of Broadway from the order of the Code Enforcement Officer, dated the ____ day of _____, 19__, relating to the dwelling located at .

This appeal is taken for the following reasons:

This the ____ day of _____, 19__.

APPELLANT

Filed with the Code Enforcement Officer

CODE ENFORCEMENT OFFICER

Filed with the Housing Board of Appeals on Dwellings, Buildings and Property Standards

CLERK

APPROVED AS TO FORM.

,
Town Attorney.

Sec. 10. NOTICE OF HEARING OF THE HOUSING BOARD OF APPEALS ON DWELLINGS, BUILDINGS AND PROPERTY STANDARDS ON APPEAL FROM ORDER OF CODE ENFORCEMENT OFFICER.

STATE OF NORTH CAROLINA
COUNTY OF LEE
TOWN OF BROADWAY

NOTICE OF APPEAL BEFORE THE BOARD OF APPEALS ON DWELLINGS, BUILDINGS AND PROPERTY STANDARDS

Pursuant to Section 152.04 [4-4] of Town of Broadway Code of Ordinances, an owner or party in interest may appeal to the Board of Appeals on Dwellings, Buildings and Property Standards concerning any of the following orders:

- Noncompliance of abatement issued by the Code Enforcement Officer upon findings that housing is unfit for human habitation; and
- Noncompliance of any order alleged to constitute a public nuisance; or that the true intent and meaning or requirements of the Sanford Code of Ordinances have been wrongly interpreted.

IN REFERENCE OF PROPERTY LOCATED AT:

To the Board of Appeals on Dwellings, Buildings and Property Standards of the Town of Broadway:

Take notice that the undersigned appeals to the Board of Appeals on Dwellings, Buildings and Property Standards of the Town of Broadway from the Order of the Community Development Department, dated the day of _____, 19____, relating to the above-referenced property.

This appeal is taken for the following reasons:

This the _____ day of _____, 19____.

DATE TO APPEAR BEFORE HOUSING BOARD OF APPEALS ON DWELLINGS, BUILDINGS AND PROPERTY STANDARDS:

LOCATION: Broadway Town Hall

TIME:

APPELLANT

CLERK

DATE

APPROVED AS TO FORM.

,
Town Attorney.

Sec. 11. AFFIDAVIT.

NOTE: If the whereabouts of an owner are unknown, this affidavit form should be executed by the Clerk to the Housing Board of Appeals on Dwellings, Buildings and Property Standards prior to publication in a newspaper. This form can be used in connection with publication of the notice of hearing (section 10) or an order of the Board of Appeals on Dwellings, Buildings and Property Standards (section 13).

File No. _____

STATE OF NORTH CAROLINA)	
COUNTY OF)	AFFIDAVIT
TOWN OF BROADWAY	SERVICE BY PUBLICATION
IN RE DWELLING LOCATED AT)	
)	

(Name of Clerk to Housing Board of Appeals on Dwellings, Buildings and Property Standards), being first duly sworn, deposes and says:

1. I am the Clerk of the Town of Broadway Board of Appeals on Dwellings, Buildings and Property Standards, the body which is authorized to hear appeals arising under the Town of Broadway Housing Code; and
2. That [name of owner(s) of dwelling unit] (is) (are) the owner(s) of the above-entitled dwelling (unit); and
3. That, according to my information and belief of the Clerk, the whereabouts of the owner(s) are unknown and cannot be ascertained by the Clerk in the exercise of reasonable diligence, or are known but attempts to serve by certified mail are refused; and
4. That service of the (notice of hearing) (order) of the Housing Board of Appeals on Dwellings, Buildings and Property Standards must be made by publication in a newspaper having general circulation in the Town of Broadway, as authorized by G.S. 160A-445 and by posting a copy thereof on the outside of the dwelling at the location stated above.

CLERK

Sworn to and subscribed before me, this, the ____ day of _____, 19__.

NOTARY PUBLIC

My Commission Expires:

Sec. 12. PROOF OF SERVICE; NOTICE OF HEARING OF THE HOUSING BOARD OF APPEALS ON DWELLINGS, BUILDINGS AND PROPERTY STANDARDS.

Service of the attached Notice was made on the ____ day of _____, 19__, by:

1. Delivering a copy of the Notice to
2. Mailing a copy of Notice by registered or certified mail to
3. The name or whereabouts of the owner cannot, after due diligence, be discovered, and this Notice was served by publication, after proper affidavit, as authorized by G.S. 160A-445 and by posting a copy thereof on the outside of the dwelling at the above-stated location on the above-mentioned date (specify date if different from above).

CLERK

NOTE: If the notice of hearing is served by certified or registered mail, keep the return receipt with this form. If the notice of hearing is served by publication, keep the publisher's affidavit of publication with this form.

Sec. 13. ORDER.

STATE OF NORTH CAROLINA)	
COUNTY OF)	BEFORE THE HOUSING BOARD OF APPEALS ON DWELLINGS, BUILDINGS AND PROPERTY STANDARDS
TOWN OF BROADWAY	
IN RE DWELLING LOCATED AT)	ORDER
)	

The appeal in the above-entitled matter having been heard after due notice, the Housing Board of Appeals on Dwellings, Buildings and Property Standards in its discretion finds, and it is hereby ordered, that the Findings of Fact and Order of the Code Enforcement Officer dated the ____ day of _____, 19__, are (affirmed) (reversed) (modified) in the following respects:

,

for the following reasons:

This the ____ day of _____, 19__.

CHAIRMAN
HOUSING BOARD OF APPEALS
ON DWELLINGS, BUILDINGS
AND PROPERTY STANDARDS

CLERK

APPROVED AS TO FORM.

,
Town Attorney.

Sec. 14. PROOF OF SERVICE; ORDER OF HOUSING APPEALS BOARD ON DWELLINGS, BUILDINGS AND PROPERTY STANDARDS.

Service of the attached Order was made on the ____ day of _____, 19__, by:

1. Delivering a copy of the Order to

OR

2. Mailing a copy of the Order by certified or registered mail to
3. The name or whereabouts of the owner cannot, after due diligence, be discovered, and this Order was served by publication, after proper affidavit, as authorized by G.S. 160A-445 and by posting a copy thereof on the outside of the dwelling at the above-stated location on the above-mentioned date.

CLERK

NOTE:

1. If the notice of hearing is served by certified or registered mail, keep the return receipt with this form. If the notice of hearing is served by publication, keep the publisher's affidavit of publication with this form.
2. If the whereabouts of the owner are unknown, publication should not be undertaken until the Code Enforcement Officer has executed an affidavit to that effect (see section 11).

Secs. 4-8—22-30. Reserved.

ARTICLE II. MINIMUM STANDARDS

Sec. 4-31. Fitness for dwellings and dwelling units.

- (a) Every dwelling and dwelling unit used as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all requirements of sections 22-32—22-37.
- (b) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling, dwelling unit or structure which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 22-32—22-37.

State law reference(s)—Exercise of police power authorized, G.S. 160A-441.

Sec. 4-32. Structural conditions.

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

- (1) 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, insects or weather.
- (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- (3) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- (4) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
- (5) Exits and egress. Dwelling units must be provided with one exit for each unit that is at no point more than 75 feet in travel distance from any point inside the unit. Every sleeping room must have an openable window for means of egress or rescue.
- (6) 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.
- (7) 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 weatherproof and watertight.
- (8) 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.
- (9) There shall be no use of the ground for floors, or wood floors on the ground.

-
- (10) Accessory structure garages, storage buildings and other accessory structures shall be maintained in good repair and sound structural condition.

Sec. 4-33. Basic equipment and facilities.

(a) *Plumbing system.*

- (1) Each dwelling unit or apartment shall be connected to a potable running water supply. It shall be unlawful for any occupant of a dwelling unit, apartment or structure to occupy such dwelling unit, apartment or structure unless running water is supplied from the available city water system or private well to the required plumbing fixtures. The code enforcement officer shall post on the main entrance to any occupied apartment, apartment building or single or multiple dwelling unit, where running water is not provided as required by this section, a sign to read: "Condemned. No Water. Occupant must vacate within 48 hours." The erection of such sign shall be notice to the occupant of the dwelling unit, apartment or structure of a violation of the provisions of this section. The occupant of any dwelling unit, apartment or structure found to be in violation of the provisions of this section shall, within 48 hours of the posting of the code enforcement officer's sign, provide running water to all required fixtures or cause the occupant to vacate the property.
- (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 private or public water supply.
- (3) Each dwelling unit and apartment shall be connected to the public sewer or other approved sewage disposal system.
- (4) All plumbing fixtures shall meet the standards of the state plumbing codes and shall be maintained in a state of good repair and in good working order.
- (5) All required plumbing fixtures shall be located within the dwelling unit and be accessible to its occupants. The water closet and tub or shower shall be located in a room affording privacy to the user and in accordance with the state plumbing codes.

(b) *Heating system.*

- (1) Every dwelling unit shall be provided with heating facilities capable of maintaining a room temperature of 68 degrees Fahrenheit at a point of three feet above the floor in all rooms.
- (2) All fuel-fired heating systems must be connected to an approved venting system either by a listed, labeled vent or masonry chimney or flue that is sufficient for the installation and is not defective, deteriorated or in need of repair and deemed safe in accordance with the requirements of the state building codes.
- (3) Listed unvented heaters may be used when installed according to the manufacturers' installation requirements. All unvented room heaters shall be equipped with an oxygen depletion sensitive safety shutoff system. The system shall shut off the gas supply to the main and pilot burners when the oxygen in the surrounding atmosphere is depleted to the percent concentration specified by the manufacturer, but not lower than 18 percent. The system shall not incorporate field adjustment means capable of changing the set point at which the system acts to shut off the gas supply to the room heater.
- (4) All heating appliances and heating systems shall bear the label of an approved testing agency and shall be installed in accordance with their manufacturers' installation requirements and their listing in compliance with the state building codes.

(c) *Electrical system.*

- (1) Each dwelling unit shall be connected to a source of electrical current supplied by the nearest available utility having domain over the area. The minimum power supply shall be a 120/240-volt service capable of serving a minimum 100-amp load and shall be properly grounded. The minimum size of service equipment at each dwelling shall be rated 100 amps, installed in accordance with the National Electrical Code (NEC). Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles.
- (2) Every public hall and stairway in every multifamily dwelling shall be adequately lighted by electric lights at all times, when natural daylight is not sufficient.
- (3) Every habitable room shall contain at least two floor or wall-type electric convenience receptacles.
- (4) 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 accordance with the current National Electrical Code.
- (5) All receptacles, ceiling fixtures or other fixtures shall be securely attached. All electrical switches, fixtures and receptacles shall be safely operable or else sealed off and disconnected.
- (6) No drop or extension cords shall be used as a substitute for the fixed wiring; run through holes in walls, ceiling or floors; run through doorways, windows or similar openings; attached to building surfaces; concealed behind building walls, ceilings or floors.
- (7) No electrical circuit shall be overloaded or double lugged. Size of wire shall be appropriate to handle electric loads safely. Fuses shall be sized correctly and not bridged out.
- (8) All new permanent wiring to be installed and receptacle replacements shall be in accordance with the current National Electrical Code. Any repair or replacement of existing wiring shall be done in accordance with such electrical code when, in the opinion of the code enforcement officer, it is reasonably practicable or otherwise vital to health and safety in order to eliminate a dangerous and hazardous condition.
- (9) Any other dangerous or hazardous electrical conditions shall also be prohibited.
- (10) All wiring shall be maintained in a safe condition.
- (11) Outside of every sleeping area, there shall be installed an operable, battery or electrical, UL approved smoke detector.

Sec. 4-34. Light and ventilation.

(a) *Habitable rooms.*

- (1) All habitable rooms shall be provided with aggregated glazing area of not less than eight percent of the floor area of such rooms. One-half of the required area of the glazing shall be openable.
- (2) *Exceptions.*
 - a. The glazed areas need not be openable, provided that there is an approved mechanical ventilation system, capable of producing a change of air every 30 minutes.
 - b. The glazed areas may be omitted in rooms where adequate artificial light is provided and the opening is not required by state building codes.

(b) *Bathrooms.*

- (1) Bathrooms, water closet compartments and other similar rooms shall be provided with aggregate glazing area in windows of not less than three square feet, one-half of which must be openable.
- (2) Exceptions:
 - a. The glazed areas shall not be required where artificial light and an approved mechanical ventilation system capable of producing a change of air every 12 minutes are provided.
 - b. Bathroom exhausts shall be vented directly to the outside.

(c) *Glazing.* Required glazed openings shall open directly onto a street or public alley, or a yard or court located on the same lot as the building. Required glazed openings may face into a roofed porch where the porch abuts a street, yard or court and the longer side of the porch is at least 65 percent open and unobstructed, and the ceiling height is not less than seven feet.

Sec. 4-35. Size, height and floor area; use of basement for living purposes.

(a) *Room size.*

- (1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state building codes.
- (2) Every dwelling unit shall have at least one habitable room which shall have not less than 150 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet. Every kitchen shall have not less than 50 square feet of floor area. Habitable rooms, except kitchens, shall be not less than seven feet in any horizontal dimension.
- (3) Every habitable room shall have a ceiling height of not less than 7½ feet for at least 50 percent of their required areas. All other rooms including kitchens, baths and hallways may have a ceiling height of not less than seven feet.
- (4) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area for the purpose of determining the maximum permissible occupancy.
- (5) Sleeping area. Minimum floor area 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) *Basements, cellars and attics.* No cellar, basement or attic space may be used as a dwelling unit unless:

- (1) It meets the requirements of the state building codes and other provisions of this Code;
- (2) The floor and walls are watertight;
- (3) The total window area, total openable window area, and ceiling height are equal to those required for habitable rooms; and
- (4) 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.

Sec. 4-36. Safe and sanitary maintenance.

- (a) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodentproof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and 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 rodentproof; shall be kept in sound condition and good repair; and shall be safe to use and capable of 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 rodentproof; and shall be kept in sound working condition and good repair.
- (d) *Stairs, porches and appurtenances.* Every inside and outside 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) *Protective railings.* Every protective railing shall be required on any unenclosed structure over 30 inches from the ground level or on any steps containing four risers or more.
- (f) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition.
- (g) *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.
- (h) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
- (i) *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.
- (j) *Egress.* Every dwelling unit or structure shall be provided with adequate means of egress as required by the state building codes.

Sec. 4-37. Control of insects, rodents and infestation.

- (a) *Screens.* Every door, window or other device opening to outdoor space and used or intended to be used for ventilation, shall be provided with screens for protection against mosquitoes, flies and other insects.
- (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. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for the extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodentproof 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) *Rubbish storage and disposal.* Every dwelling, dwelling unit and structure shall be supplied with approved containers and covers for storage of rubbish as required by city ordinances, and the owner, operator or agent in control of the dwelling, dwelling unit or structure shall be responsible for the removal of rubbish.
- (e) *Garbage storage and disposal.* Every dwelling and dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an approved outside garbage can as required by city ordinances.

Sec. 4-38. Rooming Houses.

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

- (1) *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 the facilities are shared. All 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 facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. The required facilities shall not be located in a cellar.
- (2) *Sleeping area.* Minimum floor area 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.
- (3) *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 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 is leased or occupied by the operator.
- (4) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin, and bathtub or shower required by subsection (1) of this section shall be located within the rooming house and within rooms which afford privacy and 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.

Secs. 4-39—22-60. Reserved.

ARTICLE III. ENFORCEMENT

Sec. 4-61. Powers and duties of code enforcement officer.

The code enforcement officer is designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers prescribed in this article. The code enforcement officer 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 code enforcement officer shall have the following powers and duties:

- (1) Investigate the dwelling conditions, and to inspect dwellings, dwelling units, structures and abandoned structures located in the town, in order to determine which dwellings, dwelling units, structures and abandoned structures 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 such dwellings, dwelling units, structures and abandoned structures;
- (2) 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) Keep a record of the results of inspections made under this chapter and an inventory of those dwellings, dwelling units, structures and abandoned structures that do not meet the minimum standard of fitness herein prescribed;
- (4) Administer oaths and affirmations, examine witnesses, and receive evidence;
- (5) Enter on premises for the purpose of making examinations and inspections; provided the entries shall be made in accordance with section 4-62 and state law, and shall be made in such a manner as to cause the least possible inconvenience to the persons in possession;
- (6) Appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter, and to delegate any of his functions and powers to those officers, agents and employees;
- (7) Perform such other duties as may be prescribed in this article.

Sec. 4-62. Inspections.

- (a) For the purpose of making inspections, the code enforcement officer is authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units, structures and abandoned structures and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house, rooming unit, structure or abandoned structure, or the person in charge thereof, shall give the code enforcement officer free access to the dwelling, dwelling unit or structure and its premises at all reasonable times for the purposes of inspection, examination and survey.
- (b) Every occupant of a dwelling, dwelling unit, rooming house, rooming unit or structure shall give the owner thereof or his agent or employee access to any part of the dwelling, dwelling unit or structure and its premises at all reasonable times for the purpose of making any 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, dwelling unit, structure or abandoned structure or its premises is denied, the code enforcement officer must obtain a warrant to inspect, pursuant to G.S. 15-27.2 which provides for the issuance of warrants for the conduct of inspections authorized by law. The state court of appeals in *In Re Dwelling*, 24 N.C. App. 17 (1974), has held that the consent of the tenant-occupant who was in actual possession and control of the premises was sufficient to authorize an inspection without a warrant, notwithstanding the fact

that the owner has objected to the warrantless search. When faced with a situation where permission to inspect is denied, code enforcement officers are advised to seek the advice of the town attorney.

Sec. 4-63. Procedures for enforcement.

(a) *Preliminary investigation; notice; hearing.*

- (1) Whenever a petition is filed with the code enforcement officer by a public authority or by at least five residents of the town, charging that any dwelling, dwelling unit, structure or abandoned structure is unfit for human habitation, or whenever it appears to the code enforcement officer, upon his own initiative or inspection, that any dwelling, dwelling unit, structure or abandoned structure is unfit for human habitation, he shall, if his preliminary investigation disclosed a basis for such charges, issue and cause to be served on the owner of and parties in interest in the dwelling, dwelling unit, structure or abandoned structure a complaint stating the charges and containing a notice that a hearing will be held before the code enforcement officer at a place therein fixed, not less than ten or more than 30 days after the serving of the complaint.
- (2) Exception: Every building, structure or abandoned structure which shall appear to the code enforcement officer to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the code enforcement officer shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of such building, structure or abandoned structure. If the owner of a building, structure or abandoned structure that has been condemned as unsafe pursuant to G.S. 160A-426 shall fail to take prompt corrective action, the local code enforcement officer shall give him written notice, by certified or registered mail and by regular mail to his last known address or by personal service that:
 - a. The building, structure or abandoned structure is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health or other property.
 - b. A hearing will be held before the code enforcement officer at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.
 - c. Following the hearing, the code enforcement officer may issue such order to repair, close, vacate or demolish the building, structure or abandoned structure as appears appropriate.
 - d. If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy is posted on the outside of the building, structure or abandoned structure in question at least ten days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city at least once, not later than one week prior to the hearing.

(b) *Procedure after hearing.*

- (1) After notice and hearing, the code enforcement officer shall state in writing his determination whether the dwelling, dwelling unit, structure or abandoned structure is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.
- (2) If the code enforcement officer determines that the dwelling, dwelling unit, structure or abandoned structure is deteriorated, he shall state in writing his findings of fact in support of that determination, and shall issue and cause to be served on the owner thereof an order directing and requiring the owner to repair, alter and improve the dwelling, dwelling unit, structure or abandoned structure to comply with the minimum standards of fitness established by this article 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, dwelling unit, structure or abandoned structure until such repairs, alterations and improvements have been made.

- (3) If the code enforcement officer determines that the dwelling, dwelling unit, structure or abandoned structure is dilapidated, he shall state in writing his findings of fact to support the determination, and shall issue and cause to be served on the owner thereof an order directing and requiring the owner to either repair, alter and improve the dwelling, dwelling unit, structure or abandoned structure to comply with the minimum standards of fitness established by this article, or else vacate and remove or demolish it within a specified period of time not to exceed 90 days.

Sec. 4-64. Method of service of complaints and order.

Complaints or orders issued by the code enforcement officer shall be served on persons either personally or by registered or certified mail and regular mail, but if the whereabouts of the persons are unknown and they cannot be ascertained by the code enforcement officer in the exercise of reasonable diligence, or, if known, but attempts to serve by registered or certified mail are refused, the code enforcement officer shall make an affidavit to that effect. The serving of the complaint or order on such person may be made by publishing it at least once no later than the time at which personal service would be required under the provisions of this article 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.

Sec. 4-65. Remedies.

- (a) *In personam remedy.* If the owner of any deteriorated dwelling, dwelling unit, structure or abandoned structure fails to comply with an order of the code enforcement officer to repair, alter or improve, or to vacate and close it within the time specified therein, or if the owner of a dilapidated dwelling, dwelling unit, structure or abandoned structure fails to comply with an order of the code enforcement officer to repair, alter or improve, vacate and close, and remove or demolish it within the time specified therein, the code enforcement officer 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 code enforcement officer, as authorized by G.S. 160A-446.
- (b) *In rem remedy.* After failure of an owner of a deteriorated or dilapidated dwelling, dwelling unit, structure or abandoned structure to comply with an order of the code enforcement officer within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (a) of this section, the code enforcement officer shall submit to the city councilmembers an ordinance ordering the code enforcement officer to cause the dwelling, dwelling unit, structure or abandoned structure to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the code enforcement officer; and, pending removal or demolition, to place a placard on the dwelling, dwelling unit, structure or abandoned structure as provided by G.S. 160A-443 and section 22-68 of this Code.

Sec. 4-66. Appeals from orders of code enforcement officer, directed to housing board of appeals on dwellings, buildings and property standards.

- (a) An appeal from any decision or order of the code enforcement officer may be taken by any person aggrieved thereby. Any appeal from the code enforcement officer 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 inspections department and with the housing board of appeals on dwellings, buildings and property standards a notice of appeal which shall specify the grounds on which the appeal is based. Upon the filing of any notice of appeal, the code enforcement officer shall forthwith transmit to the board of appeals on dwellings, buildings and property standards all of the papers constituting the record on which the decision appealed from was made.

- (b) When appeal is from a decision of the code enforcement officer refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the code enforcement officer 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 code enforcement officer certifies to the board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of this requirement would cause imminent peril of life or property in which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the code enforcement officer by the board, or by a court of record on petition made pursuant to G.S. 160A-446(f) and section 4-67 of this Code.
- (c) The board shall fix a reasonable time for the hearing of appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, provided that the interpretation of the board complies with the city Code as written, and the spirit of the ordinance is fulfilled, and may make such decision and order as in its opinion ought to be made in the manner. To that end it shall have all the powers of the code enforcement officer, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the code enforcement officer. The board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- (d) 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, as provided by G.S. 160-446(e).

State law reference(s)—Board of appeals on dwellings, buildings and property standards permitted to hear appeals, G.S. 160A-446.

Sec. 4-67. Petition by owner to superior court.

Any person aggrieved by an order issued by the code enforcement officer, 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 code enforcement officer pending a final disposition of the cause, as provided by G.S. 160A-446(f).

Sec. 4-68. Failure of compliance; imposition of lien.

- (a) After failure of an owner of a dwelling, dwelling unit, structure or abandoned structure to comply with an order of the code enforcement officer issued pursuant to the provisions of this chapter, and on adoption by the city councilmembers of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and section 4-65 of this Code, the code enforcement officer shall proceed to cause the dwelling,

dwelling unit, structure or abandoned structure 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 ordinance of the city councilmembers and shall cause the posting on the main entrance of the dwelling, dwelling unit, structure or abandoned structure 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.

- (b) Each such ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5).
- (c) As provided by G.S. 160A-443(6), the amount of the cost of any repairs, alterations, improvements, vacating and closing, or removal or demolition, caused to be made or done by the code enforcement officer pursuant to subsection (a) of this section shall be a lien against the real property on which the cost was incurred. The lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. 160A-216 et seq.

Sec. 4-69. Alternative remedies; appeals.

- (a) *Alternative remedies.* Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter or otherwise, or to enforce this chapter by criminal process as authorized by G.S. 14-4 and section 4-6 of this Code, and the enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedies provided in this article or in other ordinances or laws.
- (b) *Housing board of appeals on dwellings, buildings and property standards to hear appeals.* All appeals which may be taken from decisions or orders of the code enforcement officer pursuant to section 22-66 shall be heard and determined by the housing board of appeals on dwellings, buildings and property standards. As the appeals body, the board shall have the power to fix the times and places of its meetings, and to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The board shall perform the duties prescribed by section 4-66 and shall keep an accurate journal of all its proceedings.

Secs. 4-70—22-170. Reserved.

ARTICLE IV. PENALTY

Sec. 4-171. Penalty.

- (a) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by G.S. 14-4, and shall not be a violation of G.S. 14-4.
- (b) In addition to the penalty established by subsection (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.

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