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***HOUSING STANDARDS***

**§ 151.01 PURPOSE.**

(A) Pursuant to G.S. § 160A-441, it is hereby declared that dwellings exist in the town that 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 and morals and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town, as authorized by G.S. Chapter 160A, Article 19, Part 6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings for human habitation, as expressly authorized by G.S. § 160A-444. (Ord. passed 1-19-93)

**§ 151.02 DEFINITIONS.**

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

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

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

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

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

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

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

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

***GARBAGE.*** The organic waste resulting from the handling, preparation, cooking and consumption of food.

***HABITABLE ROOM.*** A room or enclosed floor space used or intended to be used for living, sleeping, rooming or squatting purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

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

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

***OCCUPANT.*** 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.

***OFFICER.*** The Minimum Housing Code Enforcement Officer of the Town or any authorized agent of the Officer.

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

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

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

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

(3) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, 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*** or ***PARTIES IN INTEREST.*** All persons who have interests of record in dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

***PERSON*** Any individual, corporation, firm, partnership, association, organization or other legal entity.

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

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

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

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

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

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

***TEMPORARY HOUSING.*** Any 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 thirty consecutive days.

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

(B) *Words having certain meaning.* Whenever the words “dwelling unit,” “rooming house,” and “premises” are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof.” (Ord. passed 1-19-93)

**§ 151.03 FITNESS.**

(A) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all the requirements of §§ 151.04 through 151.09 of this chapter.

(B) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of § 151.04 through 151.09.

(Ord. passed 1-19-93)

**§ 151.04 STRUCTURAL CONDITION.**

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

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

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

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

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

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

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

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

to be weathertight and watertight.

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

(I) There shall be no use of the ground for floors or wood floors on the ground. (Ord. passed 1-19-93)

**§ 151.05 BASIC PLUMBING, HEATING, AND ELECTRICAL EQUIPMENT AND FACILITIES.**

(A) *Plumbing system.*

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

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

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.

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

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

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

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

(C) *Electrical System.*

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

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

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the State Electrical Code. (Ord. passed 1-19-93)

**§ 151.06 VENTILATION.**

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light-obstructing structures are located less than five feet from the window and extend to a

level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such a room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required or shall have other approved, equivalent ventilation.

(C) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(Ord. passed 1-19-93)

**§ 151.07 SPACE, USE AND LOCATION.**

(A) *Room sizes.*

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

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

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

(B) *Ceiling height.* At least 1/2 of the floor area of every habitable room shall have a ceiling height of not less than seven feet six inches.

However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

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

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

(1) The floor and walls are substantially watertight;

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

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or access way. (Ord. passed 1-19-93)

**§ 151.08 SAFE AND SANITARY MAINTENANCE.**

(A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; 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 rodent proof; shall be kept in sound condition and in good repair; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

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

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

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

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

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

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

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code. (Ord. passed 1-19-93)

**§ 151.09 CONTROL OF INSECTS, RODENTS, AND INFESTATIONS.**

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with opening to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.

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

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

(D) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by this code and any other applicable ordinances of the town; and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage storage and disposal.* Every dwelling and every 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 this code or any other applicable ordinance of the town. (Ord. passed 1-19-93)

**§ 151.10 APPLICABLE TO ROOMING HOUSES.**

(A) *Applications.* All of the provisions of this chapter shall be applicable to rooming houses and to every person who operates a rooming house or who occupies or lets to another for occupancy and any rooming house except as provided in the following divisions of this section:

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

(C) *Minimum floor area for sleeping purposes.*  Every room occupied for sleeping purposes alone 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.

(D) *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.

(E) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (A) of this section shall be located within the rooming house and within a room or rooms, which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the rooming house or through any other room therein. (Ord. passed 1-19-93)

**§ 151.11 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 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.

(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 the same.

(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 dwelling or dwelling unit. (Ord. passed 1-19-93)

**§ 151.12 POWERS AND DUTIES OF MINIMUM HOUSING CODE ENFORCEMENT OFFICER.**

(A) The Minimum Housing Code Enforcement Officer is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. The Officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provision of this chapter.

(B) The Officer shall have the following powers and duties:

(1) To investigate the dwelling conditions and to inspect dwellings and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation and for the purpose of carrying out the objectives of this chapter with respect to the repair, closing or demolition of such dwellings and dwelling 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 chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;

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

(5) To enter upon premises for the purpose of making examinations inspections, provided such entries shall be made in accordance with § 151.14 and the State law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

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

(7) To perform such other duties as may be prescribed herein or by the Town Board of Commissioners. (Ord. passed 1-19-93)

**§ 151.13 INSPECTIONS.**

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

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

(Ord. passed 1-19-93)

**§ 151.14 PROCEDURE FOR ENFORCEMENT.**

(A) *Preliminary investigation; notice; hearing.*  Whenever a petition is filed with the Officer by a Public Authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Officer at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The Owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of 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. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Officer.

(B) *Procedure after hearing.*

(1) After such notice and hearing, the Officer shall state in writing his determination

whether the dwelling or dwelling unit is unfit for human habitation; and if so, whether it is deteriorated or dilapidated.

(2) If the Officer determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with minimum standards of fitness established by this chapter within a specific period of time not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

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

(C) *Failure to comply with order.*

(1) In Personam Remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Officer to repair, alter, or improve or to vacate and close the same within the time specified therein, the Officer shall submit to the Town Board at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Officer as authorized by G.S. § 160A-446(g).

(2) In Rem Remedy. After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Officer within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) of this section, the Officer shall submit to the Town Board an ordinance ordering the Officer to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished as provided in the original order of the Officer and pending removal or demolition to placard such dwelling as provided by G.S. § 160A-443 and § 151.16 of this chapter.

(D) *Appeals from Orders of Officer.*

(1) An appeal from any decision or order of the Officer may be taken by any person aggrieved thereby. Any appeal shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Officer shall forthwith transmit to the Town Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Officer refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the Officer requiring the person aggrieved to do the act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the 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 his requirement would cause imminent peril to life or property in which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the Officer, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f), and division (E) of this section.

(2) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from and may make such decision or order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Officer, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Officer. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance [issued pursuant to division (C)(2) of this section], to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

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

(E) *Petition to Superior Court by owner.* Any person aggrieved by an order issued by the 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 Officer pending a final disposition of the cause as provided by G.S. § 160A-446(f). (Ord. passed 1-19-93)

**§ 151.15 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

Complaints or orders issued by the Officer shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such persons are unknown and the game cannot be ascertained by the Officer in the exercise of reasonable diligence, the Officer shall make an affidavit to that effect and the serving of such complaint or order upon such person may be made by publishing the same at least once no later than the time at which personal service would be required under the provisions of this chapter in a newspaper having general circulation in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order. (Ord. passed 1-19-93)

**§ 151.16 IN REM ACTION BY OFFICER; PLACARDING.**

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Officer issued pursuant to the provisions of this chapter and upon adoption by the Town Board of Commissioners of an ordinance authorizing and directing him to do go, as provided by G.S. § 160A-443(5) and § 151.14(C)(2) of this chapter, the officer shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance [issued pursuant to § 151.14(C)(2) of this chapter] of the Town Board, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: “This building is unfit for human habitation; the use or occupation of this building so posted shall constitute a misdemeanor.”

(B) Each ordinance [issued pursuant to § 151.14(C)(2) of this chapter] shall be recorded in this 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). (Ord. passed 1-19-93)

**§ 151.17 COSTS; A LIEN ON PREMISES.**

(A) As provided by G.S. § 160A-446(6), the cost of any repairs, alterations, or improvements, or of vacating and closing, or removal or demolition caused to be made or done by the officer pursuant to § 151.16 of this chapter, shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, having priority, and be collected in the same manner as the lien for special assessments established by G.S. Chapter 160A, Article 10.

(Ord. passed 1-19-93)

**§ 151.18 ALTERNATIVE REMEDIES.**

Neither this chapter 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 by criminal process as authorized by G.S. § 14-4, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or

remedies provided herein or in other ordinances or laws. (Ord. passed 1-19-93)

**§ 151.19 ZONING BOARD OF ADJUSTMENT TO HEAR APPEALS.**

(A) All appeals which may be taken from decisions or orders of the Officer pursuant to § 151.14(D) of this chapter shall be heard and determined by the Zoning Board of Adjustment. As the appeals body, the Zoning Board shall have the power to fix the times and places of its meetings to adopt necessary rules and regulations for the proper discharge of its duties. The Zoning Board shall perform the duties prescribed by § 151.14(D) of this chapter and shall keep an accurate journal of all its proceedings.

(B) If the Zoning Board of Adjustment consists of more than five members, the Chairperson shall designate five members to hear appeals under this chapter. (Ord. passed 1-19-93)

***ABANDONED STRUCTURES***

**§ 151.51 FINDING; INTENT OF SUBCHAPTER.**

(A) It is hereby found that there exists within the town abandoned structures which the Board of Aldermen finds to be hazardous to the health, safety and welfare of the residents of the town due to:

(1) The attraction of insects or rodents;

(2) Conditions creating a fire hazard;

(3) Dangerous conditions constituting a threat to children; or

(4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) Therefore, pursuant to the authority granted by G.S. § 160A-441, it is the intent of this subchapter to provide for the repair, closing, or demolition of any such abandoned structures in accordance with the same provision and procedures as are set forth in §§ 151.03 through 151.08 for the repair, closing or demolition of dwellings unfit for human habitation. (Ord. passed 11-20-01)

**§ 151.52 DEFINITIONS.**

The same definitions contained in § 151.02 shall apply in the interpretation and enforcement of this subchapter.

(Ord. passed 11-20-01)

***Cross-reference:***

*Minimum housing standards, definitions, see § 151.02*

**§ 151.53 DUTIES OF HOUSING INSPECTOR; POLICE AND FIRE DEPARTMENT EMPLOYEES.**

(A) The Housing Inspector is hereby designated as the Town Officer to enforce the provisions of this subchapter. It shall be the duty of the Housing Inspector:

(1) To locate abandoned structures within the town and determine which structures are in violation of this subchapter;

(2) To take such action pursuant to this subchapter as may be necessary to provide for the repair, closing or demolition of such structures;

(3) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this subchapter;

(4) To perform such other duties as may be prescribed herein or assigned to him by the Town Board.

(B) The employees of the Fire Department and the Police Department of the town shall make a report in writing to the Housing Inspector of each building or structure which they know or suspect may be in violation of this subchapter. Any such report shall be delivered to the Housing Inspector with 48 hours of the discovery of such building or structure by such employee of the Fire and Police Departments of the town.

(Ord. passed 11-20-01)

**§ 151.54 POWERS OF HOUSING INSPECTOR.**

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

(A) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this subchapter;

(B) To enter upon premises for the purpose of making inspections;

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

(D) To designate such other officers, agents, and employees of the town as he or she deems necessary to carry out the provisions of this subchapter. (Ord. passed 11-20-01)

**§ 151.55 STANDARDS FOR ENFORCEMENT.**

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

(1) The attraction of insects or rodents;

(2) Conditions creating a fire hazard;

(3) Dangerous conditions constituting a threat to children;

(4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

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

(1) Holes or cracks in the structure's floors, walls, ceilings, or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects;

(2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;

(3) Violations of the state building code, the state electrical code, and the fire prevention code as adopted by the town in which constitute a fire hazard in such structure;

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

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

(6) Violations of the state building code or §§ 151.04 through 151.09 which might result in danger to children using the structure or nearby grounds or facilities as a play area; and

(7) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking, or eating. (Ord. passed 11-20-01)

**§ 151.56 PROCEDURE FOR ENFORCEMENT.**

Whenever a petition is filed with the Housing Inspector by a public authority or by at least five residents of the town charging that any abandoned structure is in violation of this subchapter, or whenever the Housing Inspector determines, upon inspection, that any abandoned structure is in violation of this subchapter, he or she shall, by service of a complaint and notice of hearing, initiate the same procedure for enforcement as is contained in § 151.14 of this code of ordinances. In all relevant respects, the procedure for enforcement of this subchapter shall be identical to that contained in §§ 151.14 through 151.15. (Ord. passed 11-20-01)

***Cross-reference:***

*Minimum housing standards; enforcement procedure, see § 151.14*

**§ 151.57 CONFLICT WITH OTHER PROVISIONS.**

In the event any provision of this subchapter is found to be in conflict with the provision of any other ordinance of the town, the provision which establishes the higher standard or more strict requirement for the promotion and protection of the health, safety, and welfare of the residents of the town shall prevail. (Ord. passed 11-20-01)

**§ 151.58 VIOLATIONS.**

It shall be unlawful for the owner of any abandoned structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate, close and remove or demolish the same, upon order of the Housing Inspector duly mad and served, within the time specified in such order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. (Ord. passed 11-20-01) - Penalty, see § 10.99

**§151.61 FINDING; INTENT OF SUBCHAPTER.**

(A) Pursuant to G.S. § 160A-439, it is hereby found that there exists within the town nonresidential buildings and structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the town. The Board of Aldermen finds these nonresidential buildings and structures to be hazardous to the health, safety, and welfare of the residents of the town due to:

(1) The attraction of insects or rodents;

(2) Conditions creating a fire hazard;

(3) Dangerous conditions constituting a threat to children; or

(4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) Therefore, pursuant to the authority granted by G.S. § 160A-439, it is the intent of this subchapter to provide for the repair, closing, or demolition of any nonresidential buildings or structures in accordance with the same provisions and procedures as are set forth in § 151.03 through § 151.19.

(C) The duties of the housing inspector, police and fire department employees, powers of the housing inspector, and the standards for enforcement shall be as set forth in § 151.53 through §151.55. (Ord. passed 4-15-08)

**§ 151.62 DEFINITIONS.**

The same definitions contained in § 151.02 shall apply in the interpretation and enforcement of this subchapter. (Ord. passed 4-15-08)

**§ 151.63 PROCEDURE FOR ENFORCEMENT.**

Whenever a petition is filed with the Housing Inspector by a public authority or by at least five residents of the town charging that any nonresidential building or structure is in violation of this subchapter, or whenever the Housing Inspector determines, upon inspection, that any nonresidential building or structure is in violation of this subchapter, he or she shall, by service of a complaint and notice of hearing, initiate the same procedure for enforcement as is contained in § 151.14 of this code of ordinances. In all relevant respects, the procedure for enforcement of this subchapter shall be identical to that contained in § 151.14 through 151.19. (Ord. passed 4-15-08)

**§ 151.64 ORDERS OF HOUSING INSPECTOR**

Pursuant to G.S. 160A – 439, the Housing Inspector may order that a nonresidential building or structure found to be in violation of this ordinance be repaired, closed, demolished or removed within 90 days of the Housing Inspector’s Order as follows:

(A) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the town or to vacate and close the nonresidential building or structure for any use.

(B) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Board of Aldermen determines, after a public hearing as provided by this ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure by vacated and closed until it is brought into compliance with the minimum standards established by the town.

(C) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use. (Ord. passed 4-15-08)

**§ 151.65 ABANDONMENT OF INTENT TO REPAIR**

If the Board of Aldermen has adopted an ordinance or the housing inspector has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the Board of Aldermen may make finding that the owner has abandoned the intent and purpose to repair, alter or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health safety, and welfare of the municipality in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Board of Aldermen may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(A) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure with 90 days; or

(B) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the Board of Aldermen may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the housing inspector shall effectuate the purpose of the ordinance. (Ord. passed 4-15-08)

**§ 151.99 PENALTY.**

(A) It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this code or of the ordinances of the town.

(B) In all instances where a fine is specified for violation of any provisions of this code or of any ordinance of the town and such fine is not paid, the defendant may be imprisoned for not more than 30 days.

(C) In addition to all other punishment herein provided for, any person found guilty of violating any of the ordinances, or provisions thereof, of the town may be required to pay the court costs, or any portion thereof, in the discretion of the court. ('85 Code, § 10.99)