

Chapter 16

MINIMUM HOUSING STANDARDS AND BUILDING REGULATIONS*

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90.1—150 Btu's.....	13.00
150.1—750 Btu's.....	17.00
750.1—1,500 Btu's.....	39.00
Over 1,500 Btu's.....	56.00
(3) Air conditioners and/or refrigeration compressors:	
0—5 tons.....	11.50
5.1—15 tons.....	14.00
15.1—25 tons.....	19.00
25.1—50 tons.....	31.00
50.1—100 tons.....	39.00
Over 100 tons.....	56.00

(Code 1982, § 16-28; Ord. of 11-5-85; Ord. of 8-4-87; Ord. of 12-18-90)

Secs. 16-104—16-120. Reserved.

ARTICLE V. MINIMUM HOUSING CODE*

Sec. 16-121. Title.

This article shall be known and may be cited as the "Minimum Standard Housing Code of the City of Gastonia," and will be hereinafter called "the code."

(Code 1982, § 16-33)

Sec. 16-122. Exercise of police power; finding; purpose.

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

(b) In order to protect the health, safety and welfare of the residents of the City of Gastonia as authorized by part 6 of article 19, chapter 160A of the North Carolina General Statutes, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444, and to provide procedures for the repair, closing and demolition of buildings not conforming to such minimum standards of fitness, as expressly authorized by G.S. 160A-443. (Code 1982, § 16-34)

***Editor's note**—The original title of article V, "Minimum Standard Housing Code," was amended by § 17 of an ordinance adopted Mar. 4, 1997(1).

Sec. 16-123. Code remedial.

This Code is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof—which are public safety, health, and general welfare—through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, roominghouses or buildings, structures, or premises used as such.

(Code 1982, § 16-35)

Sec. 16-124. Scope.

(a) The provisions of this Code shall apply to the construction, alteration, repair, equipment, use, occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

(b) No provision of this Code shall be held to deprive any federal or state agency, or any municipal authority having jurisdiction, of any power or authority which it had on the effective date of this article or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

(c) The provisions of this Code shall apply to all mobile homes and house trailers used as a residential occupancy in excess of 30 days.

(Code 1982, § 16-36)

Sec. 16-125. Existing buildings.

The provisions of this Code shall apply to any dwellings, apartments, apartment house or roominghouse irrespective of when said building was constructed, altered, or repaired:

- (1) If, within any period of 12 months, alterations or repairs are made to an existing building costing in excess of 50 percent of the then-physical value of the building, such building shall be made to conform to the requirement of the building, electrical, mechanical and plumbing codes for new buildings.
- (2) If any existing building is damaged by fire or otherwise in excess of 50 percent of its then-physical value before such damage is repaired, it shall be made to conform to the requirements of the building, electrical, mechanical and plumbing codes for new buildings.
- (3) If the cost of such alterations or repairs, or the amount of such damage, is less than 50 percent of the then-physical value of the building, the portions to be altered or repaired shall be made to conform to the requirements of the building, electrical, mechanical and plumbing codes for the new building to such extent as the building official may determine.
- (4) Repairs and alterations not covered by the preceding subdivisions of this section, restoring a building to its condition previous to damage or deterioration, or altering it

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in conformity with the provisions of the building code or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed.

- (5) For the purposes of this section the "physical value" of a building or structure, as hereinbefore defined, shall be determined by [the] code enforcement official, and he shall use as a guideline the fair market value of the building exclusive of land.
- (6) All repairs and alterations made to any dwelling or dwelling unit must be installed in the manner in which it was intended to be installed; and, all work must exhibit quality workmanship.

(Code 1982, § 16-37; Ord. of 3-4-97(1), § 19; Ord. of 7-7-98, § 1)

Sec. 16-126. Maintenance of buildings.

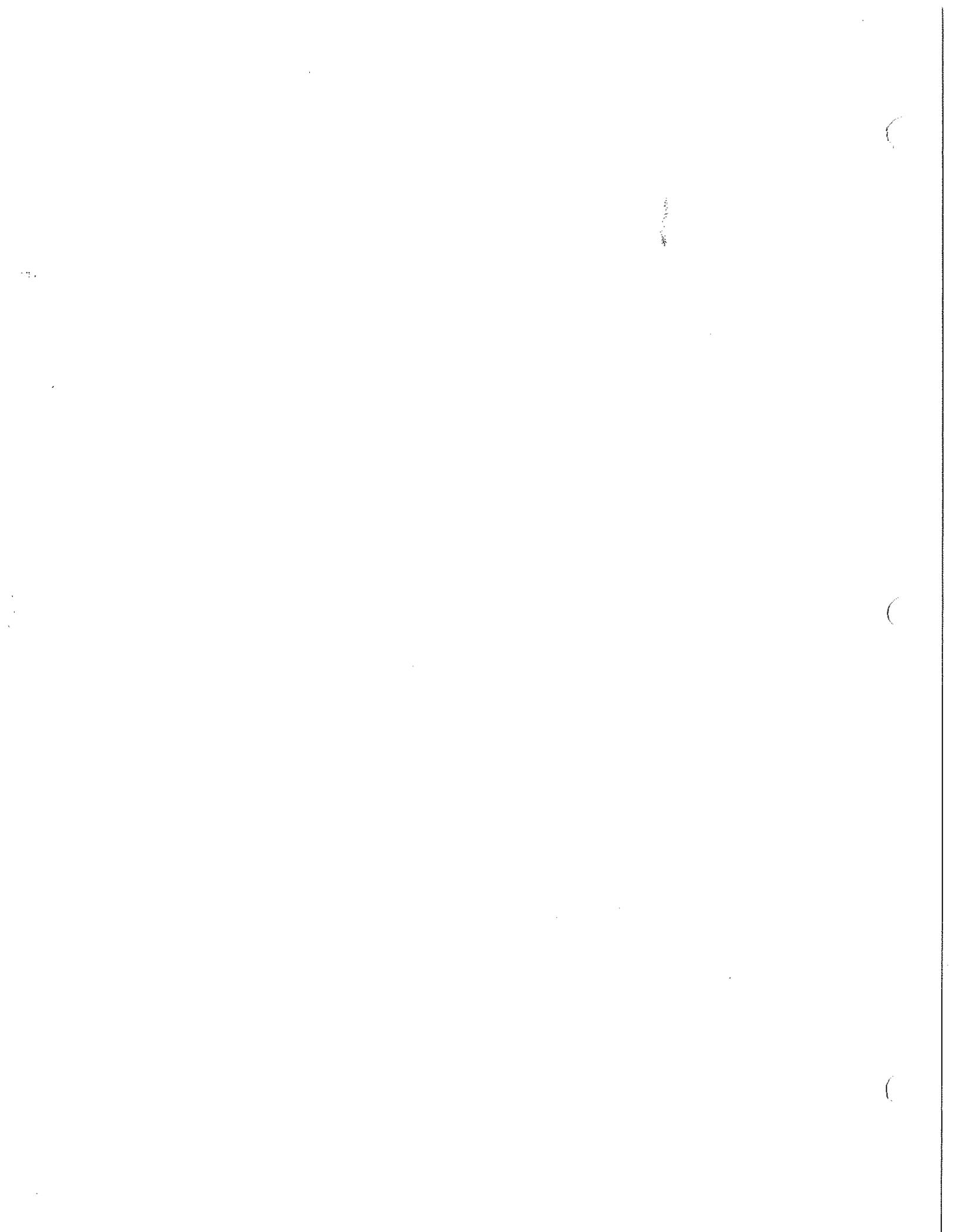
All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this Code in a building when erected, altered, or repaired shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures and premises to the extent set out in section 16-131. The tenant shall be responsible for the maintenance of buildings, structures and premises to the extent set out in section 16-131.

(Code 1982, § 16-38)

Sec. 16-127. Definitions.

For the purposes of this Code, certain abbreviations, terms, phrases, words, and their derivatives shall be construed as set forth in this section; and words used in the present tense include the future, words in masculine gender include the feminine and neuter, words in the feminine and neuter gender include the masculine, and the singular number includes the plural and the plural number includes the singular. Whenever the words "apartment," "apartment house," "dwelling," "dwelling unit," "roominghouse," "rooming unit," "premises," "structure" are used in the code they shall be construed as though they were followed by the words "or any part thereof."

- (1) *Alter or alteration.* Any change or modification in construction or occupancy.
- (2) *Apartment.* A room or a suite of rooms occupied, or which is intended or designed to be occupied, as the home or residence of one individual, family or household, for housekeeping purposes.



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- (3) *Apartment house.* See Multiple dwelling.
- (4) *Approved.* Approved by the chief code enforcement officer or his authorized agent.
- (5) *Area.* As applied to the dimensions of a building, the maximum horizontal projected area of the building at grade (see Floor area).
- (6) *Attic story.* Any story situated wholly or partly in the roof, so designed, arranged or built as to be used for business, storage or habitation.
- (7) *Basement.* A portion of a building located partly underground, but having more than one-half of its clear floor-to-ceiling height (by cubic measurement) above the average grade of the adjoining ground, and having direct access to light and air from windows located above the level of the adjoining ground.
- (8) *Building.* Any structure built for the support, shelter, or enclosure of persons which has enclosed walls of 50 percent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof."
- (9) *Building code.* Any edition, together with all adopted amendments and supplements thereto, of the North Carolina Building, Plumbing and Mechanical Codes and the North Carolina Uniform Residential Building Code, the National Electric Code and Residential Maintenance Code NFPA 73, or any other building rules or regulations adopted by the city relating to the construction, alteration, repair or removal of various types of buildings and structures.
- (10) *Cellar.* A portion of a building located partly or wholly underground, having one-half or more of its clear floor-to-ceiling height (by cubic measurement) below the average grade of the adjoining ground, and having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.
- (11) *Chief code enforcement official / officer* shall mean the person who has been designated, in writing, by the city manager to enforce the provisions of this chapter.
- (12) *Code enforcement official / officer* shall mean the employees of the code enforcement division.
- (13) *Deteriorated.* A dwelling which is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this article, at a cost not in excess of 50 percent of its physical value, as determined by the code enforcement officer. Repair at a cost not in excess of 50 percent of the value is hereby deemed reasonable pursuant to G.S. 160A-443(3).
- (14) *Dilapidated.* A dwelling which is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this article, only at a cost in excess of 50 percent of its physical value, as determined by the code enforcement officer.

- (15) *Dwelling*. Any building or structure, or portion thereof, which is used, or designed or intended to be used for human habitation including living, sleeping, cooking, and eating or any combination thereof and includes accessory structures intended for human habitation.
- (16) *Dwelling unit*. Any room or group of rooms located within a dwelling or structure and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating. This also includes extended stay living arrangements which are defined as occupancy by any individual, family or extended family in which the occupants reside in the same unit or complex for more than seven days within a 30-day period.
- (17) *Extermination*. The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination method approved by the inspections superintendent.
- (18) *Floor area*. The area included within surrounded walls of a building exclusive of vent shafts and courts.
- (19) *Garbage*. The animal and vegetable waste resulting from handling, preparation, cooking, and consumption of food.
- (20) *Habitable room*. A room used or intended to be used by one or more persons for living, eating or sleeping purposes, excluding bathrooms, water closet compartments, laundries, serving and storage pantries, corridors, cellars, and spaces that are not used frequently or during extended periods.
- (21) *Heating*. The definitions following under this subdivision shall apply to heating installations:
- a. *Central heating boilers and furnaces*. Heating furnaces and boilers shall include warm air furnaces, floor-mounted, direct-fired unit heaters, hot water boilers, and steam boilers operating at not in excess of 15 pounds of gauge pressure, used for heating of buildings or structures.
 - b. *Chimney*. A vertical shaft of masonry, reinforced concrete, or other approved noncombustible, heat resisting material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gas fuel.
 - c. *Flue*. A vertical passageway for products of combustion.
 - d. *Vent pipe*. As applied to heating, means a pipe for removing products of combustion from gas appliances.
 - e. *Water heater*. A device for the heating and storage of water to be used for other than heating or industrial purposes.

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- (22) *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.
- (23) *Multiple dwelling.* Any dwelling containing more than one dwelling unit.
- (24) *Occupant.* Any person, over one year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.
- (25) *Openable area.* That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.
- (26) *Operator.* Any person who has charge, care, or control of a building, or part thereof, in which dwelling units or rooming units are let.
- (27) *Ordinary minimum winter conditions.* The temperature 20 degrees Fahrenheit above the lowest recorded temperature for the previous 15-year period.
- (28) *Owner.* Any person who jointly or severally:
- a. Has title or any interest in or to any dwelling or dwelling unit, without regard to actual possession; or
 - b. Has charge, care or control of any dwelling or dwelling unit, as owner or representative of the owner, or as a fiduciary of the estate of the owner. It is specifically noted that any person meeting the definition of "owner" under this subsection (28)(b) shall be bound to comply with the provisions of the code to the same extent as though he were an "owner" under the above definition in subsection (28)(a).
- (29) *Person.* A natural person, his heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.
- (30) *Plumbing.* The practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building, structure, or conveyance; also the practice and materials used in the installation, maintenance, extension, or alteration of stormwater, liquid waste, or sewage, and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.
- (31) *Roominghouse.* 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.
- (32) *Rooming unit.* Any room or group of rooms forming a single habitable unit or intended to be used for living and sleeping, but not for cooking or eating purposes.

- (33) *Rubbish.* Combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.
- (34) *Substandard dwelling or structure.* A dwelling, dwelling unit, multiple dwelling, apartment, apartment house 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 Code for such use.
- (35) *Supplied.* Paid for, furnished, or provided by or under the control of the owner or operator.
- (36) *Unfit for human habitation.* Conditions that exist in a dwelling which violate or do not comply with the minimum standards of fitness or one or more of the provisions established by this Code.
- (37) *Walls.*
 - a. *Bearing wall.* A wall which supports any vertical load in addition to its own weight.
 - b. *Exterior wall.* A wall, bearing or nonbearing, which is used as an enclosing wall for a building, but which is not necessarily suitable for use as a party wall or firewall.
 - c. *Foundation wall.* A wall below the first floor extending below the adjacent ground level and serving as support for a wall, pier, column or other structural part of a building.

(Code 1982, § 16-39; Ord. of 3-4-97(1), § 20; Ord. No. 04-464, § 1, 10-5-04)

Cross reference—Definitions generally, § 1-1.

Sec. 16-128. Administration.

(a) *Chief code enforcement officer; duties; powers.* Pursuant to N.C.G.S. 160A-443 the chief code enforcement officer is hereby designated the public officer to exercise the duties and powers prescribed by this Code.

- (1) *Duties.* It shall be the duty of the chief code enforcement officer:
 - a. To investigate and to inspect all buildings, dwelling units and rooming units located in the city in order to determine which such buildings, dwelling units, roominghouses and rooming units are unfit for human habitation as well as to carry out the general spirit and purpose of this Code.
 - b. To enforce the provisions of this Code and to take such action, alone or together with other appropriated departments and agencies, public or private, as may be necessary to carry out the general spirit and purpose of this Code.

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- c. To keep adequate records of all activity conducted pursuant to this Code, including but not limited to an inventory of those buildings, dwelling units, roominghouses and rooming units that do not meet the minimum standards of fitness prescribed by this Code.
 - d. To report annually to the city manager concerning the work of his division, and to specifically the housing section, during the preceding year.
 - e. To perform each and every duty necessary and incidental to the fulfillment of the general spirit and purpose of this Code.
- (2) *Powers.* Pursuant to N.C.G.S. 160A-448, the chief code enforcement officer is hereby authorized to exercise any powers necessary or convenient to carry out and effectuate the general spirit, purpose and provisions of this Code, including specifically, but not limited to, the following:
- a. To investigate the dwelling conditions in the city in order to determine which buildings are unfit for human habitation.
 - b. To administer oaths, affirmations, examine witnesses and receive evidence.
 - c. To enter upon premises for the purpose of making examinations and inspections in a manner that will do the least possible inconvenience to the persons in possession.
 - d. To appoint and fix the duties of officers, agents and employees necessary to carry out the purpose of this Code.
 - e. To delegate any of his functions and powers under this Code to other officers and other agents.
 - f. In accordance with chapter 14, section 14-71(c), the chief code enforcement officer may terminate utility services.

(b) *Housing section constituted.* There is hereby created and established a division within the community improvement department, under the direction of the community improvements director, to be known as the code enforcement division, which shall be composed of the chief code enforcement officer and such officers and employees as shall be authorized by the council and appointed by the city manager.

(c) *Records.* The chief code enforcement officer shall keep, or cause to be kept, a record of the business of the code enforcement division. The records of the chief code enforcement officer shall be open to the public inspection.

(d) *No utility service.* The city shall not provide nor permit another to provide (either public or private) utility services such as water, gas, electricity, sewer, etc., to any substandard building or dwelling unit which becomes vacant until such building or dwelling unit has been inspected, brought into compliance with this Code and the building code, and a valid certificate of compliance, as required, has been issued.

(e) *Temporary construction utilities.* The requirements of subsection (d) above shall not preclude the temporary use of such utilities as may be deemed necessary during construction, repair or alteration. The chief code enforcement officer shall be responsible for making the determination as to when such "temporary services" may be necessary. To obtain temporary utilities the following requirements must be met:

- (1) An application must be completed and signed by owner or agent of the property and submitted to the chief code enforcement official.
- (2) Temporary utilities will only be issued for a period not to exceed 90 days. Utilities will be disconnected without notice at the expiration of the 90-day period.
- (3) The structure cannot be occupied for any reason during the time temporary utilities are being used. This includes occupation by people, animals, furniture or other personal items.
- (4) Failure to comply with these requirements shall result in the denial of or immediate termination of temporary utilities without further notice and the denial of future applications for temporary power.

(f) *No permit.* No building, plumbing, electrical, gas or other permit as may be required for an addition, alteration or repair of an existing substandard building or dwelling unit shall be issued until such time as an inspection of the property has been made to determine the feasibility of rehabilitation of such building or dwelling unit. If the determination is made that rehabilitation of such building or dwelling unit is feasible, any permits issued will in no way affect time limitations dictated by this Code.

(Code 1982, § 16-40; Ord. of 3-4-97(1), § 21; Ord. No. 04-464, § 2, 10-5-04)

Sec. 16-129. Minimum standards of fitness.

(a) All buildings, dwelling units, roominghouses, and rooming units shall provide for a healthful environment with living facilities arranged and equipped to assure such a condition. Under this section appear the fundamental requirements of this Code which shall be observed in determining the fitness of a building for human habitation.

(b) *Certificate of compliance.* No person shall occupy or allow another to occupy, or hold out for intended use, or allow another to hold out for intended use for human habitation any building, dwelling unit, roominghouse, or rooming unit designed or intended to be used for the purpose of human habitation which does not comply with the standards of this Code and for which a valid certificate of compliance has not been issued.

(c) *Plumbing systems and equipment.* Minimum standards for plumbing systems and equipment shall be: Every building and dwelling unit shall contain (and where applicable, roominghouses and rooming units) not less than the following:

- (1) A connection to a potable water supply and to the public sewer or other approved sewage disposal system.

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- (2) A kitchen sink, lavatory, tub or shower and a water closet, all in good working condition and installed in accordance with the adopted plumbing code, and located within the dwelling unit and accessible to the occupants. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user. Minimum door size for all interior doorways shall be a 24-inch door.
 - (3) Plumbing, all of which meets the standards of the adopted North Carolina Residential Building Code, Volume VII and plumbing code and which is in a state of good repair and in good working order.
 - (4) Connections to the kitchen sink, lavatory, and tub or shower of an 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. All water piping shall be protected from freezing by being properly installed in protected spaces.
 - (5) Installations of all [hot] water heating appliances according to the plumbing code, residential building code volume VII and electrical code adopted by the city, and capable of supplying a continuous source of hot water, on demand, to all the required fixtures at a temperature of not more than 120 degrees Fahrenheit and not less than 100 degrees Fahrenheit. A gas burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on all water heaters.
- (d) *Ventilation.* Minimum standards for ventilation shall be: Every building, dwelling unit, roominghouse and rooming unit shall contain not less than the following:
- (1) Windows, etc. 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 eight percent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than five 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 room, the total window area of such skylight shall equal at least 15 percent of the total floor area of such room.
 - (2) Habitable rooms. Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size, as required, and capable of being held in position by window hardware.
 - (3) 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.

- (4) Year-round mechanically ventilating conditioned air systems may be substituted for windows, as required herein, in rooms other than rooms used for sleeping purposes. Window-type air conditioning units are not included in this exception.
- (5) All attic and crawl spaces shall be ventilated according to the North Carolina Residential Building Code Volume VII.
- (6) Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with manufacturers instructions. It shall be vented directly to the exterior through approved means.

(e) *Electrical systems.* Minimum standards for electrical systems shall be: Every building, dwelling unit, roominghouse and rooming unit shall contain not less than the following:

- (1) Every building, dwelling unit, roominghouse and rooming 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 electrical code adopted by the city. In every kitchen, at least one convenient receptacle must be installed for use of kitchen appliances, this receptacle must be protected by a ground fault circuit interrupter (GFCI) receptacle. All receptacles within 24 inches of a water source or a countertop (either fixed or mobile) must be protected by a (GFCI) receptacle. There shall be installed in every bathroom a convenience wall-type, (GFCI) receptacle, according to the National Electric Code adopted by the city. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.
- (2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- (3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the electrical code adopted by the city.
- (4) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to carry adequately the total load as required by the electrical code adopted by the city, and in no case shall the service be less than 100 amps per dwelling unit.

(f) *Heating.* Minimum standards for heating shall be: Every building, dwelling unit, roominghouse, and rooming unit shall have facilities for providing heat in accordance with either subsection (1) or (2) hereof, as well as complying with subsection (3):

- (1) *Central and electrical systems.* Every central or electric heating system shall be of sufficient capacity so as to heat each dwelling unit to which it is connected with a minimum temperature of 68 degrees Fahrenheit measured at a point three feet above the floor during ordinary minimum winter conditions.

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- (2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling unit shall have adequate heating appliances installed and maintained in good and safe working condition and capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments so as to furnish a minimum temperature of 68 degrees Fahrenheit measured at a point three feet above the floor during ordinary minimum winter conditions. Under no circumstances will portable heating devices be permitted as a primary source for heating. In addition, each dwelling unit shall be provided with sufficient chimney, flues, gas vents and/or fireplaces in accordance with the provisions of the North Carolina State Building Code, North Carolina Volume VII Residential Code and North Carolina Medical Code.
- (3) *Installation and maintenance.* Heating appliances and facilities shall be listed by Underwriters Laboratory or another approved listing agency and installed in accordance with the building code, North Carolina Volume VII Residential Code; North Carolina Mechanical Code and National Electrical Code, and shall be maintained in safe and good working condition.
- (4) Fireplaces used for heating ventilation shall be maintained according to the following criteria:
 - a. Fireplaces shall be closed with masonry when the chimney is used as a flue for a stove.
 - b. A stove shall be within six feet of a thimble serving it.
 - c. No combustible material shall be within 12 inches of a stovepipe unless stovepipe is listed by an approved listing agency and installed in accordance with the manufacturer's guidelines.
 - d. No stovepipe shall pass through combustible walls unless stovepipe is listed by an approved listing agency and installed in accordance with the manufacturer's guidelines.
 - e. Fireplaces may be used for supplementary heat only and not as main or primary source of heating for the structure.
 - f. Unvented gas heaters, or logs cannot be used as a primary source of heat and cannot be located in any rooms used for sleeping purposes. If installed, it must meet manufacturers guidelines in regards to space, use, location and ventilation.

(g) *Space, use and location.* Minimum standards for space, use and location shall be: Every building, dwelling unit, roominghouse, and rooming unit shall contain not less than the following:

- (1) *Dwelling unit.* 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 floor area for each additional occupant.

(2) *Room sizes.*

- a. Every dwelling unit, roominghouse, and rooming unit shall contain at least the minimum room size in each habitable room as required by the North Carolina State Building Code and the North Carolina Volume VII Residential Code.
- b. 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.
- c. The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

(3) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and hall area within the dwelling unit, where provided, 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 4½ feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy.(4) *Occupant.* For the purpose of this subsection a person under one year of age shall not be counted as an occupant.(5) *Ceiling height.* At least one-half of the floor area of every room shall have a ceiling height of at least seven feet.(6) *Cellar.* No cellar shall be used for living purposes.(7) *Basement.* No basement shall be used for living purposes unless (i) the floor and walls are substantially watertight, (ii) the total window area, total openable window area and ceiling height are equal to those required for habitable rooms and (iii) 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.

(h) *Safe and sanitary maintenance.* Minimum standards for safe and sanitary maintenance shall be: Every building, dwelling unit, roominghouse, and rooming unit shall comply at least with the following:

- (1) *Exterior foundation walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight, watertight, and rodent proof; shall be capable of affording privacy; adhere to all ventilation requirements in section 16-129(d)(5); and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be main-

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tained in good condition. Exterior wood surfaces, other than decay-resistance woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

- (2) *Insulation.* Every dwelling unit shall have a minimum of R-19 insulation in the attic area. The approved types include blown insulation, bat insulation, or other insulation equivalent to a total of R-19 insulation value as approved by the North Carolina Volume VII Residential Code. A minimum clear opening into each attic space of 14 inches by 24 inches shall be provided to allow for access, inspection and repair. The chief code enforcement officer or designee can grant a waiver of this requirement in the event that this requirement would necessitate major alterations of the structure, or would produce harmful accumulations of heat or moisture that cannot be removed by ventilation.
- (3) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially weather tight, watertight and rodent proof; and shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every tub or shower shall have a wall surface constructed and maintained so as to be substantially impervious to water and shall be maintained in a clean and sanitary condition.
- (4) *Windows and doors.* Every window, exterior door and 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. Doors shall be provided at all doorways leading to bedrooms, toilet rooms, and bathrooms and all rooms adjoining a public space. All doors leading to the exterior must have an apparatus for opening and closing the door on both sides, a locking mechanism, and shall be kept in sound working condition and good repair.
- (5) *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 may cause to be placed thereon; and shall be kept in sound condition and good repair. Handrails and guardrails must be installed per the guidelines of the North Carolina Volume VII Residential Code as adopted by the city.
- (6) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- (7) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this Code shall be so constructed and installed that it will function safely and effectively, and shall be maintained in sound working condition.

- (8) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage as to prevent the accumulation of stagnant water and to allow positive drainage around the foundation of the dwelling unit, roominghouse or rooming unit.
- (9) *Egress.* Every dwelling shall have a means of egress as required by the North Carolina Volume VII Residential Code adopted by the city.
- (10) *Noxious weeds.* Every yard and all exterior property area shall be kept free of noxious weeds or plant growth which are in excess of 12 inches, and which cause or threaten to cause a hazard detrimental to the public health and safety.

(i) *Insects, rodents and infestations.* Minimum standards for control of insects, rodents and infestations shall be: Every building, dwelling unit, roominghouse, and rooming unit shall at least comply with the following:

- (1) *Screens.* For protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed so as to not be permanently affixed to the window frame, sash or structural members of the dwelling unit; and maintained in good condition without rips or tears.
- (2) *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 supplied with screens installed or such other approved device as will effectively prevent their entrance.
- (3) *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 only after one attempt by the owner to exterminate; 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. Notwithstanding the foregoing provisions of this subdivision, whenever infestation is caused by failure of the actual owner to maintain a dwelling in a rodentproof or reasonably insectproof condition, extermination shall be the responsibility of the actual owner, as opposed to the tenant/occupant. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling in any dwelling units, extermination thereof shall be the responsibility of the owner, and not the tenant.
- (4) *Rubbish.* Every dwelling unit shall be supplied with adequate rubbish storage facilities.
- (5) *Garbage.* Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, having a capacity of not more than 30 gallons per each container.

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(j) *Structural condition.* Minimum standards for structural conditions shall be: Every building, dwelling unit and rooming unit shall at least comply with the following:

- (1) Walls or partitions or supporting members, sills, joists, rafters or other structural member 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.
- (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used. Roof coverings shall be maintained in good condition; no more than two roof coverings on any roof (if more than two roof coverings, the roof coverings will not have to be removed until current roof covering has deteriorated.) All new roofs must be installed in accordance with North Carolina Residential Code.
- (3) Foundations, foundation walls, (load bearing or non-load bearing), piers or other foundation supports shall not be deteriorated or damaged. All foundation walls shall be maintained plumb and free from deterioration, and shall be capable of supporting the load and remain free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.
- (4) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that will not fail or collapse, or pose a danger to the occupants or the public. Handrails and guardrails must be installed per the guidelines of the North Carolina Residential Code as adopted by the city.
- (5) Adequate facilities for egress in case of fire or panic shall be provided as per guidelines of the North Carolina Residential Code as adopted the city.
- (6) Interior walls and ceilings of all rooms, closets and hallways must 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 privacy between various spaces.
- (7) 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 weather-tight, watertight, and rodent-proof.
- (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 ground.

(k) *Fire safety requirements.*

- (1) Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort.
- (2) Fire-resistant-rated assemblies. The required fire resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

- (3) All habitable room shall have at least one window facing directly to the outdoors and easily accessible as a means of egress. No window shall have bars, boards or other obstructions which prevents egress.
- (4) Smoke alarms shall be installed as follows:
 - a. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
 - b. In each room used for sleeping purposes
 - c. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics.
 - d. Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place. Buildings undergoing construction which constitutes the removal of interior wall or ceiling materials exposing the structure must install smoke detectors as required by the North Carolina Building Code (electric with battery back-up).

(Code 1982, § 16-41; Ord. of 10-19-93; Ord. of 3-4-97(1), § 22; Ord. of 7-7-98, § 2; Ord. of 7-6-99, § 2; Ord. No. 01332, § 4, 2-20-01; Ord. No. 04-464, § 3, 10-5-04; Ord. No. 06-511, § 1, 6-6-06)

Sec. 16-130. Rooming house/dwelling unit minimum standards.

All of the provisions of this article, and all of the minimum standard requirements of this article, shall be applicable to rooming houses and dwelling units, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit, rooming house, or any dwelling unit except as provided in this section.

- (1) *Rooming house.* All rooming houses must comply with the following requirements:
 - a. *Water closets, 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 said 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

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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 the cellar.

- b. *Sanitary conditions.* The owner or 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 building; and 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.
- c. *Sanitary facilities.* Every water closet, flush urinal, lavatory, basin and bathtub or shower required by subsection a. shall be located within the rooming house and within a room or rooms afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.
- d. *Safety.* To assure the safety of all occupants of a rooming house the following standards must be met:
 - 1. Bathroom and kitchen must have at least one receptacle accessible to the countertop and lavatory without the use of a drop cord or other device and must be installed to meet the criteria of a ground fault circuit interrupter (GFCI) type receptacle.
 - 2. Smoke detectors must be provided in every rooming unit, kitchen, hallway and on every level.
 - 3. All doors leading to individual rooming units must be provided with a secure locking mechanism and door handle. No padlocks or hasps allowed.
 - 4. No cooking appliances except microwaves can be located within the rooming units.
 - 5. No portable heating appliances (fuel or electric) shall be allowed in any area of the rooming house
 - 6. All cord and plug appliances, whether provided by the owner or occupant, must be installed in a safe and secure manner and in accordance with the manufacturers recommendations.
 - 7. All points of ingress/egress and hallways must be lighted automatically upon diminished natural light.
 - 8. All rooming houses must be in compliance with all applicable city ordinances to received a certificate of occupancy.
- e. *Cooking and eating facilities.* All rooming houses must be supplied with the following facilities for cooking and eating.
 - 1. At least one room not less than 120 square feet shall be located in every rooming house to be used for cooking and eating.

2. All facilities for cooking and eating shall be located within the residence building served and shall be directly accessible from an interior common hall or passage way and shall not be more than one story removed from any of the persons sharing such facilities.
 3. At least one kitchen sink shall be supplied with hot and cold water at all times. A cook stove and oven of the built-in type shall be provided and maintained in good working condition at all times and the unit must be hardwired into the electrical/gas system.
 4. All connections to kitchen sink, oven and cook top must be in conformance with the North Carolina Building Code and section 16-129 of this article.
 5. Counter tops must be provided, not less than 24 inches by 48 inches, in kitchen area.
 6. The floor covering in all rooms provided for cooking and eating shall be constructed and maintained so as to be substantially impervious to water and permit such to be easily kept clean and sanitary.
- (2) *Dwelling unit.* All dwelling units and rooming units must comply with the following requirements:
- a. All dwelling units must comply with the minimum standards set forth in section 16-129 of this article.
 - b. All dwelling units must complete site plan approval through the code enforcement division and if applicable the zoning division, and receive proper permits from the inspections division.
 - c. Site plan must contain room sizes and layout, location of bathroom, eating and cooking areas, sleeping areas, ingress/egress locations, and all interior measurements.
 - d. Rooms must conform to the minimum room sizes and the total size of the unit must not be less than 240 square feet of interior space.
 - e. Kitchen sink must be a double compartment sink and cannot be a lavatory.
 - f. Countertops must be provided in the kitchen area and cannot be less than 24 inches by 48 inches.
 - g. Ground fault receptacles are required at the kitchen counter top and at the bathroom lavatory space. A receptacle is required in the kitchen area for the use of a refrigerator without the use of a drop cord.
 - h. The floor covering in all rooms provided for cooking and eating shall be constructed and maintained so as to be substantially impervious to water and permit such to be easily kept clean and sanitary.

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- i. A cook stove and oven of the built-in type shall be provided and maintained in good working condition at all times and must be hard-wired into the electrical system for the structure.

(Code 1982, § 16-42; Ord. No. 04-464, § 4, 10-5-04)

Sec. 16-131. Responsibilities of owners and occupants.

(a) *Safety.*

- (1) In order to protect the health and safety of occupants of a building the owner shall, within 48 hours after being notified in writing, repair any broken, burst, frozen or inoperable plumbing pipe or fixtures.
- (2) In order to protect the health and safety of occupants of a building the owner shall, within 48 hours after being notified in writing, repair any exposed or unsafe wiring.
- (3) In order to protect the health and safety of occupants of a building the owner shall, within 48 hours after being notified in writing, repair or replace any unsafe and/or dangerous cooking or heating equipment provided by the owner.
- (4) In order to protect the health and safety of occupants of a building the owner shall, within 48 hours after being notified in writing, repair or replace fuel storage tanks and/or leaking, improperly supported or dangerous.
- (5) In order to protect the health and safety of occupants of a building the owner shall within 48 hours after being notified in writing, repair, replace or install a heating appliance as required by this Code in section 16-129(f)(1)—(3).
- (6) In order to protect the health and safety of occupants of a building the occupants shall, within 48 hours after being notified in writing, not place within any structure for use therein any oil or gas fired portable or nonvented cook stove or heater.
- (7) In order to protect the health and safety of occupants of a building the occupants shall, within 48 hours after being notified in writing, not place on the premises for the use thereon any heating or cooking unit which constitutes a serious fire hazard.
- (8) In order to protect the health and safety of occupants of a building or dwelling after being notified in writing have all utilities (i.e., electric, water, sewer and gas), either public or private, connected or installed within the dwelling unit.
 - a. Upon discovering a violation of subsection (a), the code enforcement official shall have the power to order the corrections within 48 hours from the date of notice thereof. The order shall be delivered to owner/occupant in person or by certified mail. In the event that the owner/occupant fails to make such corrections, then the code enforcement official shall set issue a civil citation of \$100.00 per violation and order a hearing pursuant to the procedures of section 16-132 subsection (a) and, thereafter may again order the correction of any such violations within 48 hours from the date of service of the order upon the occupant. In the event that the occupant/owner still fails to make such corrections, then the code enforcement

official may order the building to be vacated within a reasonable time period. The code enforcement official may pursue any other civil or criminal action as he deems reasonable necessary in order to effectuate the purposes of this chapter.

[b. Reserved.]

(b) *Cleanliness.*

- (1) Every owner of a multiple dwelling shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and the premises thereof.
- (2) Every occupant of a building, dwelling unit, roominghouse, or rooming unit shall be responsible for the following as applied to that unit which he occupies and controls:
 - a. To keep the occupied area and all facilities in a clean and sanitary condition. A clean and sanitary condition shall include but is not limited to the following:
 1. Floors, floor coverings and other walking surfaces shall be kept clean and free of dirt, filth, garbage, fecal matter, litter, refuse and other unsanitary matter.
 2. Walls, ceilings, windows and doors shall be kept clean and free of dirt, greasy films, soot and any other unsanitary matter.
 3. Plumbing fixtures shall be kept in a clean, sanitary and operable condition. No materials shall be deposited in any such fixture which may result in the obstruction of such fixture or any lines connected thereto.
 4. Cookstove, refrigerator, cabinets and other furnishings shall be kept clean, free of dirt, film, soot and any other unsanitary condition.
 5. No occupant shall obstruct in any manner any means of egress/ingress to or from any portion of the premises.

(c) *Rubbish and garbage.*

- (1) Except as stated below in subsection (2), every owner of a building, dwelling unit, roominghouse, and rooming unit shall be responsible for the availability of rubbish and garbage storage facilities.
- (2) Every occupant of a building, dwelling unit, roominghouse, or rooming unit shall dispose of all of his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facility. Occupants of buildings containing one or two dwelling units shall be responsible for the availability of rubbish and garbage facilities.

(d) *Supplied plumbing fixtures.*

- (1) Every owner of a building, dwelling unit, roominghouse, or rooming unit shall supply such plumbing and plumbing fixtures as are required by this Code.

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(2) Every occupant of a building, dwelling unit, roominghouse, or rooming unit shall keep all supplied plumbing and plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in their proper use and operation.

(e) *Care of facilities, equipment and structure.* No occupant shall wilfully destroy, deface or impair any of the facilities or equipment of any part of the structure of a building, dwelling unit, roominghouse, or rooming unit which he occupies.

(f) *Extermination.* For the responsibilities of occupants concerning extermination, see section 16-129(i)(3) of this Code.

(g) *Care of premises.* It shall be unlawful for the owner or occupant of a building, dwelling unit, roominghouse, or rooming unit to utilize the premises of such property for the open storage of any abandoned motor vehicle, icebox, refrigerator, stove, glass, building materials, building rubbish or any other similar items. It shall be the duty and responsibility of every such owner and occupant to keep the premises of such property clean and to remove from the premises all such abandoned items as listed above, including but not limited to, weeds, dead trees, trash, garbage, etc. It is hereby noted that for the purposes of this subsection an abandoned motor vehicle is defined as one that is in a state of disrepair and incapable of being moved under its own power.

(h) *Inspections and examinations.*

(1) Every owner of a building, dwelling unit, roominghouse, or rooming unit shall provide the chief code enforcement officer free access to such property at all reasonable times for the purposes of any inspection, examination or survey being conducted by the chief code enforcement officer or his designee.

(2) Every occupant of a building, dwelling unit, roominghouse, or rooming unit shall give the owner thereof access to any part of such building, dwelling unit, roominghouse, or rooming unit at all reasonable times for the purpose of the owner making such repairs or alterations as are necessary to effect compliance with the provisions of this Code, or with any lawful order issued pursuant to the provisions of this Code. Additionally, every occupant of a building, dwelling unit, roominghouse, or rooming unit shall give the chief code enforcement officer free access to such building, dwelling unit, roominghouse, or rooming unit at all reasonable times for the purpose of any such inspection, examination, or survey conducted pursuant to this Code.

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

(Code 1982, § 16-43; Ord. of 3-4-97(1), §§ 23, 24; Ord. No. 06-511, § 2, 6-6-06)

Sec. 16-132. Procedure for enforcement.

(a) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the chief code enforcement officer by a public authority or by at least five residents of the city charging that any building, dwelling unit or rooming unit is unfit for human habitation, or whenever it

appears to the chief code enforcement officer, upon inspection, that any building, dwelling unit or rooming unit (hereinafter collectively called "unsafe building") 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, as defined in section 16-127(28), of such unsafe building a complaint stating the charges and containing a notice that a hearing will be held before the chief code enforcement officer at a place and time therein fixed, not less than ten nor more than 30 days after the serving of said complaint. The owner 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. If applicable, notice of such hearing shall also be given to at least one of the persons signing a petition relating to such unsafe building. 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 chief code enforcement officer.

At the hearing the chief code enforcement officer may determine pursuant to G.S. 160A-444 that an unsafe building is unfit for human habitation if he finds that conditions exist in the unsafe building that render it dangerous or injurious to the health, safety, or morals of the occupants of the unsafe building, the occupants of the neighboring buildings, or other residents of the city. Such conditions may include, but are not limited to, the following: defects therein increasing the hazards of fire, accidents, or other calamities; failure in any way to conform to the minimum standards set forth in this Code; or especially dangerous to life because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, or inadequate means of egress.

(b) *Procedure after hearing.* After such notice and hearing, the chief code enforcement officer shall state in writing his determination whether such unsafe building is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

- (1) If the chief code enforcement officer determines that the unsafe building is deteriorated, he shall state in writing his findings 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 and improve such unsafe building to comply with the minimum standards of fitness established by this Code within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such unsafe building until such repairs, alterations and improvements have been made. Upon application by the owner within the specified period of time, the chief code enforcement officer may grant extensions for substandard dwellings for up to 90 days if substantial progress has been made and the unit is occupied by its owner.
- (2) If the chief code enforcement officer determines that the unsafe building 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 to vacate, close and remove or demolish the same within a specified period of time not to exceed 90 days, unless the owner elects to proceed under the provisions set forth below, or unless an application for an extension of up to 90 days is applied for

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by the owner within the time provided for compliance and granted by the chief code enforcement officer for substantial progress made. However, if the dwelling is located



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in a historic district of the city and the historic district commission determines, after a public hearing, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160A-400.14(a).

- (3) Within ten days from the date of the order determining that the building is dilapidated, the owner may notify the chief code enforcement officer in writing of his intent to make such repairs or alterations to said dwelling so as to comply with the minimum standards of fitness. Upon receipt of an owner's written intent to repair said dwelling, within the time provided herein, the chief code enforcement officer shall issue a supplemental order directing the owner to commence and complete the repairs or alterations necessary to comply with the minimum standards of fitness. The chief code enforcement officer shall allow a reasonable period of time for the owner to make such repairs or alterations, but in no event shall the period of time allowed for such repairs or alterations be less than 30 days nor more than 90 days unless an extension is granted by the chief code enforcement officer for substantial progress made. Upon application by the owner within the specified period of time, the chief code enforcement officer may grant extensions for substantial dwellings for up to 90 days if substantial progress has been made and the unit is occupied by its owner.
- (4) Extensions and appeals. In order to be considered for any extension of time for compliance with an order issued pursuant to this article, the owner must have made a good-faith effort to comply with the order and all dangerous conditions must have been repaired. The chief code enforcement officer shall have sole authority to grant extensions. The city council shall have no authority to hear or act upon extension requests or appeals of any order issued by the chief code enforcement officer.
- (5) If the owner fails to give notice of either an intent to repair as herein provided or notice of appeal of the decision of the chief code enforcement officer to the board of adjustment within the time specified for such an appeal, the chief code enforcement officer shall proceed in accordance with the provisions of subsections (c)(1) or (c)(2) of this section.
- (6) Whenever a determination is made pursuant to subsection (2) above that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the chief code enforcement officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The chief code enforcement officer or the city clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the chief code enforcement officer to wait 45 days before causing removal or demolition.

(c) *Failure to comply with order.*

- (1) *In personam* remedy. If the owner of any deteriorated unsafe building shall fail to comply with an order of the chief code enforcement officer to repair, alter or improve the same within the time specified therein, or if the owner of a dilapidated unsafe building shall fail to comply with an order of the chief code enforcement officer to vacate, close and remove or demolish the same within the time specified therein, the chief code enforcement officer may submit to the council at its next regular meeting a resolution directing the city attorney to institute in the general court of justice an appropriate action to seek an order of the court directing such owner to comply with the order of the chief code enforcement officer, as authorized by G.S. 160A-446(g); or
- (2) *In rem* remedy. If the owner of any deteriorated unsafe building shall fail to comply with an order of the chief code enforcement officer within the time fixed by that order to repair, alter or improve the same within the time specified therein; or if the owner of a dilapidated unsafe building shall fail to comply with an order of the chief code enforcement officer to vacate, close, and remove or demolish the same within the time specified therein; or if judicial relief has not been sought or has not been granted as provided in the preceding subsection (c)(1); then in any of these events and pursuant to G.S. 160A-443(4) and (5) the chief code enforcement officer shall request the council to order him by an ordinance specifically describing the subject property to do the following, either (i) to cause such unsafe building to be repaired, altered and improved to comply with the minimum standards of fitness established by this Code, or (ii) to cause such unsafe building to be vacated, closed, and removed or demolished. The council, in ordering one of the aforesaid alternatives, shall order the specific action that will best effectuate the purposes of this Code. Once the ordinance is adopted by the council a true copy of such ordinance shall be recorded in the office of the register of deeds of Gaston County and the registrar shall index the name of the property owner in the "grantor index," as provided by G.S. 160A-443(5). Once such an ordinance is adopted by the council the chief code enforcement officer shall forthwith cause such repair, alteration and improvement or closing, vacating and removal or demolition to be carried out by any public authority or private concern. Pursuant to G.S. 160A-443(6) the amount of the cost of repairs, alterations and improvements, or vacating, closing and removal or demolition shall be a lien against the real property upon which the cost was incurred. Such lien shall be filed, have the same priority and be collected as the lien for special assessment provided in article 10, chapter 160A of the North Carolina General Statutes. If the unsafe building is removed or demolished by the chief code enforcement officer, he shall, if possible, sell in any commercially reasonable manner the materials of the unsafe building and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition. Any balance remaining shall be deposited by the chief code enforcement officer with the clerk of superior court for subsequent disbursement by the court to the persons found by the court to be entitled thereto.
- (3) If any occupant fails to comply with an order to vacate a dwelling, the chief code enforcement officer may file a civil action in the name of the city to remove such occupant(s). Such action shall be filed and conducted in accordance with the provisions of G.S. 160A-443(7).

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- (4) None of the provisions of this Code shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise; or to enforce this Code by criminal process pursuant to 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 any ordinance of the city, or any statute of the State of North Carolina.
- (5) **Placarding.** After there has been a failure of the owner to comply with an order of the chief code enforcement officer to repair, alter and improve, or to vacate, close, and remove or demolish the unsafe building, then the chief code enforcement officer shall cause to be posted on the main entrance of any such unsafe building a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for habitation is prohibited and unlawful." Occupation or use of a building so posted is a violation of this Code and shall constitute a misdemeanor pursuant to G.S. 14-4.

(d) *Appeals from orders of chief code enforcement officer.* An appeal from any decision or order of the chief code enforcement officer may be taken by any person aggrieved thereby. Any appeal from the chief code enforcement officer shall be taken within ten days from the rendering of the decision, or if either the owner or his attorney was not present when the decision was rendered, then within ten days of service of such order. Such appeal shall be taken by filing with the chief code enforcement officer and with the board of adjustment created in chapter 17, article VII, of this Code (hereinafter called "the board") a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the chief code enforcement officer shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the chief 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 chief 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 chief 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 to the appellant), a suspension of his requirement would cause imminent peril to life or property. In that case, the requirement shall not be suspended except by a restraining order, which may be granted for due cause upon not less than one day's written notice to the chief code enforcement officer by the board, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection (e) of this section. All regulations, fees and other rules of the board shall apply to these appeals as stated in section 16-132(d).

The board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the chief code

enforcement officer, but the concurring vote of four-fifths of the members of the board shall be necessary to reverse or modify any decision or order of the chief code enforcement 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, 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.

Every decision of the board shall be subject to review by the superior court of Gaston County 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 chief code enforcement officer or a decision rendered by the board shall have the right, within 30 days after the issuance of the order or rendering of a decision, to petition the superior court for a temporary injunction, restraining the chief code enforcement officer pending a final disposition of the cause, as provided by G.S. 160A-446(f).

(Code 1982, § 16-44; Ord. of 10-19-93; Ord. of 3-4-97(1), § 25; Ord. of 7-7-98, § 3)

Sec. 16-133. Methods of service of complaints and orders.

(a) Complaints and all orders issued by the chief code enforcement officer shall be served by the chief code enforcement officer upon persons either personally or by registered or certified mail. When service of a complaint or order is accomplished personally or by registered or certified mail, such service is hereby deemed to be complete on the day of delivery to or receipt by the person served. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

- (1) If the identities of any owners or the whereabouts of persons are unknown and the same cannot be ascertained by the chief code enforcement officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail and the chief code enforcement officer makes an affidavit to that effect, then the serving of such complaint or order upon the owners or other persons may be made by publication in a newspaper of general circulation in the city at least once no later than the time at which personal service would be required under the provisions of the Minimum Housing Code and Article 19, Part 6, Chapter 160A of the General Statutes. When service is made by publication, a copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order; in the case of the complaint, it must be posted at least ten days prior to the hearing.

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(b) Notice of *lis pendens*. Upon the issuance of a complaint and notice of hearing or an order pursuant thereto, a notice of *lis pendens*, with a copy of the complaint and notice of hearing or order attached thereto, may be filed in the office of the clerk of superior court of Gaston County. The notice of *lis pendens* and a copy of the complaint and notice of hearing or order attached thereto shall be indexed and cross indexed in accordance with the indexing procedures of G.S. 1-117. From the date and time of indexing, the complaint and notice of hearing or order shall be binding upon the successors and assigns of the owners of and parties in interest in the dwelling. A copy of the notice of *lis pendens* shall be served upon the owners and parties in interest in the dwelling at the time of filing in accordance with G.S. 160A-445. The notice of *lis pendens* shall remain in full force and effect until canceled. The notice of *lis pendens* shall be canceled upon compliance with the order. Upon receipt of notice of cancellation from the city, the clerk of superior court shall cancel the notice of *lis pendens*.

(Code 1982, § 16-45; Ord. of 12-19-95(3), § 1; Ord. of 3-4-97(1), § 26; Ord. No. 7-6-99, § 1)

Sec. 16-134. Conflict with other provisions.

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

(Code 1982, § 16-46)

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Sec. 16-135. Violations; penalty.

(a) It shall be unlawful for the owner of any unsafe building to fail, neglect, or refuse to repair, alter, and improve the same; or to fail to vacate, close, and remove or demolish the same, upon order of the chief code enforcement officer duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any unsafe building with respect to which an order has been issued pursuant to section 16-132 of this Code, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration and improvement or its vacation, closing and removal or demolition, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(b) Any owner of dwelling who fails to comply with any order described in subsection (a), or who allows occupancy of the building subject to such order after the compliance period in the order has expired, shall be subject to a civil penalty of \$250.00 for each day that noncompliance continues following the expiration of the compliance period specified in the order of compliance. Any person who occupies or allows to be occupied any building being served by temporary power pursuant to subsection 16-128(e) shall be subject to a civil penalty of \$250.00 for each day such building is occupied while receiving temporary power. An owner of a dwelling who fails to comply with the provisions of subsection 16-129(b) shall be subject to a civil penalty of \$250.00 for each day the dwelling is occupied prior to the issuance of a certificate of compliance. If a person fails to pay the civil penalty within ten days of receipt of the citation, the city may seek to collect it in a civil action in the nature of a debt.

(c) A violation of this article shall not be punishable as a criminal offense or an infraction.

(d) Each day that a violation continues after notification that such violation exists shall constitute a separate and distinct offense for purposes of the penalties and remedies set forth in this section.

(e) This article may be enforced by any appropriate equitable action.

(f) This article may be enforced by any one, all, or any combination of the remedies authorized in this section.

(Code 1982, § 16-47; Ord. of 5-19-87; Ord. of 8-17-93; Ord. of 10-19-93; Ord. of 3-4-97(1), § 27; Ord. No. 04-464, § 5, 10-5-04; Ord. No. 06-511, § 3, 6-6-06)

Sec. 16-136. Severability.

If any provision of this Code is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, independent provision and such holding shall not affect the validity of any other provision hereof, and to that end the provisions of this Code are hereby declared to be severable.

(Code 1982, § 16-48)

Sec. 16-137. Abandoned structures.

(a) Any abandoned structure that is a health or safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters, or the absence of sanitary facilities, shall be repaired, closed, or demolished. It shall be unlawful for the owner of an abandoned structure to allow the same to become or to remain a health or safety hazard as defined in this section.

(b) The code enforcement official shall have the authority to attempt to accomplish the repair, closing, or demolition of unsafe abandoned structures through the procedure set out in section 16-132, except that if the estimated cost to repair the structure is 50 percent or more of its value, the structure shall be considered dilapidated, and the code enforcement official shall order that it be demolished and removed. Upon the failure of the owner of an unsafe abandoned structure to comply with an order of the code enforcement official to repair, close, or demolish such structure, the code enforcement official shall present the matter to city council. If the city council finds that the abandoned structure is unsafe pursuant to subsection (a) of this section, it may adopt an ordinance ordering the code enforcement official to cause such abandoned structure to be repaired, closed, or demolished. Each such ordinance shall be recorded as provided in section 16-132(c)(2), and the cost of any repair, closing, or demolition caused to be made by the code enforcement official shall be a lien on the premises as provided in section 16-132.

(c) For the purposes of subsections (a) and (b), "abandoned structure" shall mean any structure that has not been occupied or used, by its owner or by some person acting under the authority of its owners, for a continuous period of 30 days or longer.

(d) If the city council shall have adopted an ordinance, or the code enforcement official shall have issued an order, ordering a dwelling to be repaired or vacated and closed, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of six months pursuant to the ordinance or order, then if the governing body shall find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this state, then in such circumstances, the city council may, after the expiration of such six-month period, enact an ordinance and serve such ordinance on the owner, setting for the following:

- (1) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding 50 percent of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 30 days; or

- (2) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding 50 percent of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 30 days. Such ordinance shall be recorded as provided in section 16-132(c)(2), and the cost of any repair, closing, or demolition caused to be made by the code enforcement official shall be a lien on the premises as provided in section 16-132.

(Ord. of 3-4-97(1), § 28)

Secs. 16-138—16-160. Reserved.

ARTICLE VI. ELECTRICITY

Sec. 16-161. Qualifications, appointment and salary of electrical inspector.

(a) *Qualifications.* There is hereby created the office of electrical inspector. The person chosen to fill the office of electrical inspector should have at least a high school education and should be a competent electrician of good moral character; shall be possessed of such executive ability as is requisite for the efficient performance of his duties; shall have a thorough knowledge of the standard materials and methods used in the installation of electric wiring, devices, appliances and equipment; shall be well versed in approved methods of electrical construction for safety to life and property, the North Carolina General Statutes relating to electrical work, the rules and regulations issued under authority of the statutes, the National Electrical Code, as approved by the American Standards Association, and the National Electrical Safety Code, as approved by the American Standards Association.

(b) *Appointment; salary.* The electrical inspector shall be appointed by the city manager, who shall provide for him the instruments necessary for him to make electrical inspections, and who shall notify the insurance department of his appointment. The electrical inspector may be removed from office by the city manager. The salary to be paid to the electrical inspector shall be determined by the council.

(Code 1982, § 16-55)

Sec. 16-162. Duties, reports and authority of electrical inspector.

It shall be the duty of the electrical inspector to enforce all state and local laws governing electrical installations and materials, to issue permits for and to make inspections of all new electrical installations and such other permits and inspections as may be prescribed by the council. He shall, upon application, grant permits for the installation or alteration of electric wiring, devices, appliances and equipment, and shall make inspections for all new electrical installations and reinspections as provided in this article. He shall keep complete records of all permits issued, inspections and reinspections made, fees collected, and other official work performed in accordance with the provisions of this article. He shall make a monthly report to the city manager of all permits issued, inspections made and fees collected. He shall also keep

on file a list of inspected and approved electrical materials, devices, appliances and equipment issued by Underwriters' Laboratories, Inc., which list shall be accessible for public reference. (Code 1982, § 16-56)

Sec. 16-163. Electrical inspector's access to premises; authority to disconnect.

The electrical inspector shall have the right during reasonable hours to enter any building in the discharge of his official duties, or for the purpose of making any inspection, reinspection or test of the installation of electric wiring, devices, appliances and equipment contained therein, and shall have the authority to cut or disconnect any wire in cases of emergency where necessary for safety to life and property. Said electrical inspector is hereby authorized to disconnect, or order the discontinuance of, electrical service to any electric wiring, devices, appliances or equipment found to be dangerous to life or property because it is defective or defectively installed until such wiring, devices, appliances and equipment and their installations have been made safe and approved by said electrical inspector.

(Code 1982, § 16-58)

Sec. 16-164. Hindering or interfering with electrical inspector.

No person shall hinder or interfere with the electrical inspector, or his authorized representative, in the discharge of the duties of his office.

(Code 1982, § 16-59)

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Sec. 16-165. Permits and inspections.

(a) The term "inspection" as referred to in this article shall mean the necessary scrutiny and checking of a wiring installation to determine whether or not the installation has been made in conformity with state and local laws governing wiring installations and materials. The inspector shall have and use the necessary instruments and tools for testing each installation as to insulation, continuity, polarity, etc. No roughing-in work will be considered complete until all joints are properly made, soldered and taped, nor until all service switches, control switches, circuit cabinets and receptacles, together with their appropriate trims and covers, are properly placed and the grounding connections have been made.

(b) No electric wiring, devices, appliances or equipment shall be installed within or on any building, structure, or premises, nor shall any alteration or addition be made in any such existing wiring, devices, appliances or equipment without securing a permit therefor and having an inspection thereof made by the electrical inspector, except as stated below:

- (1) No permit shall be required for minor repair work, such as the replacement of lamps, or the connection of portable devices to suitable receptacles which have been permanently installed.
- (2) No permit shall be required for the installation, alteration or repair of electrical wiring, devices, appliances and equipment installed by or for an electrical public service corporation for the use of such corporation in the generation, transmission, distribution or metering of electrical energy, or for the use of such corporation in the operation of signals or the transmission of intelligence.

(Code 1982, § 16-60)

Sec. 16-166. Permits for owner of property.

Any person may be permitted to perform electrical work upon his own property except property intended for rent, sale or gift, provided he first makes application for and obtains a permit from the electrical inspector to do the specific work contemplated, provided the applicant satisfies the electrical inspector that he is competent to perform the work for which permit is requested in a manner which will meet all statutory and ordinance requirements. If so satisfied, the electrical inspector shall issue a permit to the applicant personally to perform the particular work for which application was made. Such permit shall extend to the applicant only and shall not authorize the applicant to employ the services of any other person to assist him unless such other person is a qualified contractor. The permit granted the applicant shall automatically expire upon the completion of the work for which application was made and the permit issued. All work done under such permit shall be subject to regular electrical inspection requirements and fees and shall be required to satisfy all statutory and ordinance requirements and regulations applicable to such work.

(Code 1982, § 16-61)

Sec. 16-167. Annual permit for owners of property in certain instances; inspections.

(a) In lieu of an individual permit for each installation or alteration, an annual permit may, upon application therefor and the payment of a fee of \$35.00 with said application to

cover inspections that might be required of electrical installations or work thereunder, be issued to any person, firm or corporation regularly employing one or more electricians for the installation, repairing or maintenance of electric wiring, devices, appliances, machinery and equipment by such applicant or such employees on premises owned or occupied by the applicant for the permit; provided the applicant satisfies the electrical inspector that the applicant or his regularly employed electricians are competent, and provided such premises are regularly occupied by such applicant and not intended for rent, sale or gift, and provided such devices, appliances, machinery and equipment on such premises are installed, repaired or maintained by such applicant in connection with and incident to the applicant's conduct or course of business on, or use of, such premises. The application for such annual permit shall be made in writing to the electrical inspector and shall contain a description of the premises within which work is to be done under the permit. The person, firm or corporation to which an annual permit is issued shall keep a record of all electrical wiring, devices, appliances and equipment installed under such permit, and the electrical inspector shall have access to such record. Each annual permit shall expire on December 31 of the year in which it was issued.

(b) At regular periods the electrical inspector shall visit all premises where work may be done under annual permits and shall inspect all electric wiring, devices, appliances and equipment installed under such a permit since the date of his last previous inspection, and shall issue a certificate of approval for such work as is found to be in conformity with the provisions of this section. The inspection fee of \$35.00 paid upon the issuance of the annual permit shall cover any and all fees for electrical installations or work permitted thereunder. Upon inspection, if the installation is not found to be fully in conformity with the provisions of this section, the electrical inspector shall at once forward to the person, firm or corporation a written notice stating the defects which have been found, and upon receipt of such notice such defects shall be corrected and if not corrected, any permit issued under the provisions of this section shall be cancelled and voided by the electrical inspector upon written notice to the holder of such permit.

(Code 1982, § 16-62; Ord. of 12-18-90)

Sec. 16-168. City license required; state license prerequisite to issuance of city license or permit.

No permit, except a personal permit or an annual permit as outlined in sections 16-166 and 16-167 above, for the installation or alteration of any electrical wiring, devices, appliances or equipment, shall be issued to any person, firm or corporation unless such person, firm or corporation is the holder of an electrical contractor's license issued by the North Carolina State Board of Examiners of Electrical Contractors, and is also the holder of an electrical contractor's license from the city, and no such city license shall be issued to an applicant unless such applicant is then the holder of an electrical contractor's license issued by the North Carolina State Board of Examiners of Electrical Contractors.

(Code 1982, § 16-63)

Sec. 16-169. Responsibility for employees' and agents' work.

Any person granted a license or permit by the city shall thereafter be fully responsible for any work performed under such license or permit by his employees, agents, helpers or apprentices.

(Code 1982, § 16-64)

Sec. 16-170. Wiring not to be hidden by construction prior to inspection.

When any part of a wiring installation is to be hidden from view by the permanent placement of parts of the building, the person, firm or corporation installing the wiring shall notify the electrical inspector, and such parts of the wiring installation shall not be concealed until they have been inspected and approved by the electrical inspector, or until 24 hours exclusive of Saturdays, Sundays and holidays shall have elapsed from the time of such notification; provided that on large installations, where the concealment of parts of the wiring proceeds continuously, the person, firm or corporation installing the wiring shall give the electrical inspector due notice and inspections shall be made periodically during the progress of the work.

(Code 1982, § 16-65)

Sec. 16-171. Notice of completion.

Upon completion of any installation for which a permit and inspection is required, it shall be the duty of the person installing same to notify the electrical inspector, who shall inspect the installation within 24 hours of the time such notice is given or as soon thereafter as practicable.

(Code 1982, § 16-66)

Sec. 16-172. Certificate of approval.

Where the electrical inspector finds the installation to be in conformity with the provisions of the public safety laws of the state governing electrical wiring installations and materials and of this article, he shall issue a certificate of approval in duplicate, one for the utility furnishing the electrical service and one for the property owner.

(Code 1982, § 16-67)

Sec. 16-173. Authorization of temporary power for existing buildings.

Connection of temporary power for existing buildings may be authorized by the issuance of a certificate of approval by the electrical inspector. Such certificate shall be issued to expire at a time to be stated therein and shall be revocable by the electrical inspector for cause. A preliminary certificate of approval may be issued authorizing the connection and use of certain specific portions of an incompleated installation; such certificate shall be revocable at the discretion of the electrical inspector.

(Code 1982, § 16-68; Ord. of 8-20-91)

Sec. 16-174. Authorization of temporary power for new buildings.

(a) For purposes of this section, the term "temporary power" shall refer to connection of electric power directly to the building under construction, as distinguished from "saw service" in which a pole and electric meter are placed on the building site and an electric wire is run from the pole to the building.

(b) Connection of temporary power may be authorized for new residential and commercial construction when necessary to maintain optimal environmental conditions for installing floor and wall coverings, finishes or other materials, or when necessary to operate equipment for testing purposes.

(c) The person to whom a building permit has been issued may apply to the inspections superintendent or his designee for temporary power. In order for the building to qualify for temporary power service, the following requirements must be met:

- (1) The roof and permanent exterior walls must be up and in place;
- (2) All windows, doors, switches and receptacles must have been installed;
- (3) Service equipment must have been installed and inspected;
- (4) Rough building, plumbing and electrical inspections must have been made and approved; and
- (5) If a heating system is to be connected, final inspection of the heating system must have been made and approved.

(d) At the time an application for temporary power is submitted, the applicant shall pay a nonrefundable administrative fee of \$20.00 to cover the costs of processing the application.

(e) Once the requirements in subsection (c) have been met and the application fee has been paid, the inspections superintendent shall authorize temporary power to the building, not to exceed 120 days.

(f) It shall be unlawful for a building at which temporary power has been authorized to be occupied before issuance of a certificate of occupancy. Such unlawful occupancy shall be a violation of this section and shall subject the applicant to the penalties set forth below.

(g) Occupancy of the building in violation of this section shall subject the applicant to the following penalties:

- (1) First violation: A civil penalty of \$250.00 shall be assessed by the issuance of a citation by the inspections superintendent. No further building permits will be issued to the violator until the penalty has been paid and a certificate of compliance has been obtained for the building or structure in violation of this section.
- (2) Second violation: A civil penalty of \$500.00 shall be assessed by the issuance of a citation by the inspections superintendent. The violator shall not be entitled to receive any further authorizations of temporary power from the city, and the inspec-

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tions superintendent shall contact the general contractors licensing board of the State of North Carolina regarding the applicant's conduct.

(3) If a citation issued above is not paid within ten calendar days from the date of issuance, the penalty may be recovered by the city in a civil action in the nature of a debt.

(4) In addition to imposing civil penalties, the city may seek any appropriate equitable remedy from a court of competent jurisdiction to ensure compliance with this section, including an injunction or order to abate the violation.

(5) Violation of this section shall not be considered a misdemeanor pursuant to G.S. 14-4. (Code 1982, § 16-68.1; Ord. of 8-20-91, § 16-68.1)

Sec. 16-175. Extra electrical inspections; fee.

Any additional inspection, or inspection trips, made by the electrical inspector or his assistant, made necessary through the failure of any electrical contractor, or electrician in charge of work, to specify location of work, or failure to install wiring or apparatus in proper manner, or to otherwise create conditions making such additional inspections or trips necessary, are hereby designated "extra electrical inspections." For each such extra electrical inspection a fee of \$10.00 shall be charged against and paid by said contractor or electrician. Nothing herein shall be construed to require extra fees for the several inspections made necessary in the regular course of electrical construction work.

(Code 1982, § 16-69; Ord. of 11-5-85; Ord. of 8-4-87)

Sec. 16-176. Electrical permit fees.

(a) Normally in the construction of a building two inspection trips are necessary; one to inspect the roughing-in, which consists of all the wiring, switches, grounding, etc., completed and in place; the second trip is after the appliances and fixtures are installed, or hung, which is generally referred to as the final inspection. The fees as scheduled cover all the necessary trips required in the course of the inspection, except those made necessary because of defects found in the installation which are known as extra electrical inspections as defined in section 16-175.

(b) Prior to the issuance of a permit to install, alter or restore electrical work in accordance with the provisions of this chapter, the electrical contractor, or such person as required, shall pay to the city a fee in the following specified amounts:

(1) 1-10 outlets	\$ 2.75
Each additional outlet	0.25
(2) 1-10 fixtures	2.75
Each additional fixture	0.25

(3) Meter boxes or service panel.....	5.25
(4) Motors, devices or appliances.....	3.25
(5) Temporary meter service.....	8.00
(6) Electrical sign.....	8.00
(7) Annual permits, any and all electrical thereunder.....	35.00

No permit shall be issued for less than \$11.50.

(Code 1982, § 16-70; Ord. of 11-5-85; Ord. of 8-4-87; Ord. of 12-18-90)

Sec. 16-177. Installation standards; electrical code adopted.

(a) All electrical installations shall be in conformity with the provisions of the public safety laws of the State of North Carolina governing electrical wiring installations and materials and all ordinances of the city.

(b) All electrical installations, service, wiring and construction and all material, apparatus and appliances used in connection with electrical work and the operation of all electrical apparatus in the city shall conform to the 1976 edition of the National Electrical Code, as published by the National Fire Protection Association, copies of which are on file in the office of the electrical inspector of the city. Such code is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the installation, handling and maintenance of all electrical equipment and apparatus in the city.

(Code 1982, § 16-71)

Sec. 16-178. Certificates and permits prerequisite of power.

No current for electric light, heat or power shall be connected, or allowed to be connected, with any building, structure or device in the city until the certificates or permits as required by the ordinances of this city have first been obtained; and if any such current is so connected without the certificate or permit as required by the ordinances of this city having been obtained, the electrical inspector shall cause such current to be disconnected until the ordinances of the city shall have been complied with.

(Code 1982, § 16-72)

Sec. 16-179. Special construction rules.

(a) *Brick veneer structures.* Where the building construction is of brick veneer exterior, the electrical contractor shall install a suitable anchorage to the framework to support the service drop so that no strain will be applied to the brick veneer. The service drop bracket or fixture shall be secured by means of screws, bolts or lags. Nails shall not be used in any case.

(b) *Corrections to original installations.* When inspections are necessary due to changes or alterations in the original wiring system, the inspector shall make an inspection of the original installation and if any defects due to additions or alterations to the original system are

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found, he shall require such corrections as are necessary to take care of the defects and loads which have been added.

(c) *Feeder or main lines, noninterference and procedure for removal.* No person erecting scaffolding, putting up signs, or in any other way repairing, tearing down, or remodeling buildings shall cut, break or interfere with the arrangement of any feeder or main telephone, telegraph, light or other such electrical wires without permission of the electrical inspector; provided, however, when it is necessary to remove such wires, the person desiring to do so shall give ten days' written notice to the inspector, and it shall be the duty of the inspector, in his discretion, within 48 hours of receipt of notice from the person desiring the wires removed, to notify such person of his decision that such wires shall be removed; provided, when such permission is granted, the work shall be done under the direction of the electrical inspector. The expense of such removal or of necessary changes in the wiring shall be borne by the person at whose request such changes are made.

(Code 1982, § 16-73)

Sec. 16-180. Liability for damages.

No provisions of article III of this chapter shall be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electric wiring, devices, appliances or equipment for damages to person or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspection authorized herein or the certificate of approval issued as herein provided.

(Code 1982, § 16-74)

Sec. 16-181. Trimming trees, interference with city.

When any tree, bush or shrub in the city is growing or has grown against or so near any electrical wire or any electrical equipment owned by the city, so as to create a fire hazard or thereby endanger life or property, the city shall have the right to cut or trim such trees or shrubbery to the extent, and for the purpose, of correcting such hazard. Any person interfering with the city or its agents in carrying out any of the provisions of this section shall be guilty of a separate offense for each day of such interference.

(Code 1982, § 16-75)

Secs. 16-182–16-205. Reserved.

ARTICLE VII. CONDEMNATION OF BUILDINGS AND STRUCTURES OTHER THAN HOUSING

Sec. 16-206. Exercise of police power; finding; purpose.

(a) It is hereby found and declared that there exist in the City of Gastonia structures and buildings other than buildings utilized for housing of humans (hereinafter called "buildings") which are especially dangerous to life because of defects in such buildings increasing the

hazards of fire, accidents, and other calamities; or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, or inadequate means of egress; or because of their violation of the minimum standards prescribed in the regulatory codes adopted by the city and appearing in article II of this chapter; or because of other conditions rendering the buildings unsafe or unsanitary, and dangerous and otherwise inimical to the welfare of the citizens of the city.

(b) In order to protect the health, safety and welfare of the citizens of Gastonia, it is the purpose of this article to provide procedures for the repair, closing or demolition of the aforesaid buildings.

(c) No provision of this article shall be held to deprive any federal or state agency, or any municipal authority having jurisdiction, of any power or authority which it had on the effective date of this article or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

(Code 1982, § 16-81)

Sec. 16-207. Administration.

(a) *Inspections superintendent; duties; powers.* The inspections superintendent of the inspections division of the planning department is hereby designated the public officer to exercise the duties and powers prescribed by this article.

(1) *Duties.* It shall be the duty of the inspections superintendent:

- a. To investigate all buildings located in the city, in order to determine whether such buildings are especially dangerous to life because of defects in such buildings increasing the hazards of fire, accidents and other calamities; or because of bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress; or because of their violation of the minimum standards prescribed in the regulatory codes adopted by the city and appearing in article II of this chapter; or because of other conditions rendering the buildings unsafe or unsanitary, and dangerous and otherwise inimical to the welfare of the citizens of the city.
- b. To take the action prescribed by this article, alone or together with other appropriate departments and agencies, public or private, as may be necessary to carry out the general spirit and purpose of this article.
- c. To keep adequate records of all activity conducted pursuant to this article, including but not limited to, an inventory of those buildings that do not meet minimum standards prescribed by this article.
- d. To report annually to the city manager concerning the work of his division under this article.
- e. To perform each and every duty necessary and incidental to the fulfillment of the general spirit and purpose of this article.

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(2) *Powers.* The inspections superintendent is hereby authorized to exercise any powers necessary or convenient to carry out and effectuate the general spirit, purpose and provisions of this article, including specifically, but not limited to, the following:

- a. To investigate the buildings covered under this article which are located in the city in order to determine which buildings are especially dangerous to life under the provisions of section 16-206.
- b. To administer oaths, affirmations, examine witnesses and receive evidence.
- c. To enter upon premises for the purpose of making examinations and inspections in a manner that will do the least possible inconvenience to the persons in possession.
- d. To appoint and fix the duties of officers, agents and employees necessary to carry out the purposes of this article.
- e. To delegate any of his functions and powers under this article to other officers and other agents.

(b) *No utility services.* The city shall not provide, nor permit another to provide (either public or private) utility services such as water, gas, electricity, sewer, etc., to any building which is especially dangerous to life because of any of the conditions set forth in section 16-206, and which has become vacant, until such building has been inspected and brought into compliance with the regulatory codes adopted in this chapter, and a valid certificate of compliance as required has been issued. This requirement shall not preclude the temporary use of such utility services as may be deemed necessary during construction, repair or alteration. The inspections superintendent shall be responsible for making the determination as to when such "temporary services" may be necessary.

(c) *No permits.* No building, plumbing, electrical, gas or other permit, as may be required, for an addition, alteration or repair of an existing building which is especially dangerous to life because of the conditions set forth in section 16-206 shall be issued until such time as an inspection of the property has been made to determine the feasibility of rehabilitation of such building.

(Code 1982, § 16-82)

Sec. 16-208. Preliminary investigation; condemnation; placarding.

Whenever it appears to the inspections superintendent that a building is in the state described in section 16-206, the inspections superintendent shall condemn the building by posting on a conspicuous place on an exterior wall of the building a notice with the following words: "This building is hereby declared unsafe and is condemned; the use or occupation of this building is prohibited and unlawful." Occupation or use of a building so posted is a violation of this article and shall constitute a misdemeanor pursuant to G.S. 14-4. The unauthorized removal of such a notice shall constitute a misdemeanor pursuant to G.S. 160A-427. A copy of the posted notice, a detailed report of the inspections superintendent and a request that the owner take prompt corrective action with respect to the building shall be personally delivered or mailed to the owner of the building, if he and his address are known.

(Code 1982, § 16-83)

Sec. 16-209. Service of notice.

If the owner of a building that has been condemned pursuant to section 16-208 shall fail to take prompt corrective action, the inspections superintendent shall give him written notice by serving pursuant to section 16-133 a notice stating the following:

- (1) That the building is in a condition that appears to constitute a fire or safety hazard, or to be dangerous to life, health or other property;
- (2) That a hearing will be held before the inspections superintendent at a designated place and time, not later than ten days after the date of the notice;
- (3) That the owner shall be entitled to be heard in person or by counsel, and to present arguments and evidence pertaining to the matter; and
- (4) That following the hearing, the inspections superintendent may issue such order to repair, close, vacate or demolish the building as appears appropriate.

(Code 1982, § 16-84)

Sec. 16-210. Hearing; procedure after hearing.

Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence in courts of law and equity shall not be controlling in hearings before the inspections superintendent. If, upon a hearing held pursuant to the requirements of this article, the inspections superintendent shall find that the building is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health or other property, he shall make an order in writing, directed to the owner of such building, requiring the owner to remedy the defective conditions by repairing, closing, vacating or demolishing the building, or taking other necessary steps, within such period, not less than 60 days, as the inspections superintendent may prescribe.

(Code 1982, § 16-85)

Sec. 16-211. Failure to comply with order.

(a) *In personam remedy.* If the owner of a building fails to comply with an order of the inspections superintendent issued pursuant to section 16-210 within the time specified therein, the inspections superintendent may follow the procedure of section 16-132(c)(1); or

(b) *In rem remedy.* If the owner of a building fails to comply with an order of the inspections superintendent issued pursuant to section 16-210 within the time specified therein, or if judicial relief has not been sought or has not been granted as provided in the preceding subsection (a), then in any of these events the inspections superintendent shall follow the procedure of section 16-132(c)(2).

(c) *Misdemeanor.* Pursuant to G.S. 160A-431, if the owner of a building fails to comply with an order issued under section 16-210 from which no appeal is taken, or fails to comply

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with an order of the council following an appeal, he shall be guilty of a misdemeanor. Each day of such failure to comply shall constitute a separate offense.
(Code 1982, § 16-86)

Sec. 16-212. Appeals from orders of inspections superintendent.

(a) Under this article, pursuant to G.S. 160A-430, any owner who has received an order issued under section 16-210 may appeal from the order to the council by giving notice of appeal in writing to the inspections superintendent and to the city clerk within ten days following the issuance of the order. In the absence of such an appeal, the order of the inspections superintendent shall be final. The council shall hear an appeal under this section within a reasonable time, and may modify, affirm or revoke the order.

(b) Upon the filing of any notice of appeal, the inspections superintendent shall forthwith transmit to the council all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the inspections superintendent 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 inspections superintendent requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the council unless the inspections superintendent certifies to the council, 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 to 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 by a restraining order granted by the council for due cause shown upon not less than one day's written notice to the inspections superintendent, or by a restraining order of any court of record.

(Code 1982, § 16-87)

Sec. 16-213. Severability.

The provisions of this article are severable to the same extent as provided in section 16-136.
(Code 1982, § 16-88)

Secs. 16-214—16-235. Reserved.

ARTICLE VIII. EXTRATERRITORIAL EFFECT

Sec. 16-236. Territory within perimeter.

(a) Except for article V, entitled "Minimum Standard Housing Code," and article VII, entitled "Condemnations of Buildings and Structures Other than Housing," this chapter shall be applicable not only within the corporate limits of the city, but also within the boundaries of its extraterritorial jurisdiction established by the city for the enforcement of municipal regulatory powers conferred by article 19, chapter 160A of the North Carolina General Statutes.

(b) Article V, entitled "Minimum Standard Housing Code," and article VII, entitled "Condemnations of Buildings and Structures Other than Housing," shall be applicable only within the corporate limits of the city; except, however, to the extent section 16-34(2) also requires the application of the entire provisions of article VII to the aforesaid extraterritorial jurisdiction.

(Code 1982, § 16-96)

ARTICLE IX. SOIL EROSION AND SEDIMENTATION CONTROL

Sec. 16-237. County article adopted.

The article entitled "Soil Erosion and Sedimentation Control for Gaston County" adopted November 14, 2002 and amended March 13, 2003, to become effective April 1, 2003, is hereby adopted in its entirety as an ordinance of the city. All subsequent amendments thereto shall be likewise effective and enforceable in the city. A copy of said ordinance and all amendments thereto shall be kept in the office of the city clerk.

(Ord. No. 03-436, § 1, 5-6-03)

ARTICLE X. COMMERCIAL MAINTENANCE CODE

Sec. 16-238. Commercial Maintenance Code

This Code shall be known and will be referred to herein as the "Commercial Maintenance Code", and may be cited as such.

(Ord. No. 03-450, § 1, 2-3-04)

Sec. 16-239. Purpose and scope

(a) It is the purpose of the provisions of this article to provide a just, equitable and practical method, whereby commercial buildings or structures which from any cause, endanger the life, limb, health, property or safety or welfare of the general public or their occupants, impede economic development, diminish property values, or detract excessively from the appropriate appearance of the commercial area, may be required to be repaired, vacated or demolished. It is the further purpose of this article to preserve the character and integrity of the community.

(b) The provisions of this article shall apply to all commercial buildings or other nonresidential structures which are now in existence or which may be built which are located within the Gastonia Downtown Redevelopment Area or other named "redevelopment areas" as adopted by the City of Gastonia per Section 160A-500 et. seq. of the North Carolina General Statutes.

(Ord. No. 03-450, § 1, 2-3-04)

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Sec. 16-240. Definitions.

For the purpose of this Code, certain abbreviations, terms, phrases, words and their derivatives shall be construed as set forth in this section; and words used in the present tense include the future, words in masculine gender include the feminine and neuter, words in the feminine and neuter gender include the masculine, and the singular number includes the plural and the plural number includes the singular.

Approved. Approved by the chief code enforcement officer or his authorized agent.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building area. The area included within surrounding exterior walls (or exterior walls and fire walls) exclusive of vent shafts and courts. Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or the floor above.

Building code. Any edition, together with all adopted amendments and supplements thereto, of the North Carolina Building, Plumbing and Mechanical Code, Gas Code and Electric Code, the North Carolina Residential Building Code, the North Carolina Rehabilitation Code or any other building rules or regulations adopted by the city relating to the construction, alteration, repair or removal of various types of structures.

Building of historical value. A building which is listed on the National Register, or constituting special significance to the general citizenry of the City of Gastonia due to age, history, architectural design, human occurrence, culture and possessing integrity of design, setting, materials, feelings and association.

Chief code enforcement official/officer. Shall mean the person who has been designated, in writing, by the city manager to enforce the provisions of this chapter.

Code enforcement official/officer. Shall mean the employees of the code enforcement division.

Commercial business. Any business or enterprise which produces and/or offers for sale products and/or services or, in any manner conducts commerce.

Nuisance.

- (1) Any public nuisance known at common law or in equity, or as provided by the Statutes of North Carolina, or the ordinances of the city; or
- (2) Any condition including an attractive nuisance which may prove detrimental to human health or safety whether in a building, on the premises of a building, or part of a building or upon an occupied lot; or
- (3) Physical conditions dangerous to human life or detrimental to health of persons in, on or near the premises where the condition exists; or
- (4) Unsanitary conditions or conditions that are dangerous to public health, well being or the general welfare; or

- (5) Fire hazards or other safety hazards.

Owner. Any person who jointly or severally:

- (1) Has title or any interest in or to any, structure, building, dwelling or dwelling unit, without regard to actual possession; or
- (2) Has charge, care or control of any, structure, building, dwelling or dwelling unit, as owner or representative of the owner, or as a fiduciary of the estate of the owner. It is specifically noted that any person meeting the definition of "owner" under this subsection (b) shall be bound to comply with the provision of the Code to the same extent as though he were an "owner" under the above definition in subsection (a).

Structurally sound. Substantially free from flaw, defect, decay or deterioration to the extent that such structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

(Ord. No. 03-450, § 1, 2-3-04)

Sec. 16-241. Applicability and compliance

(a) Every commercial building or structure and the premises on which it is situated, used or intended to be used for commercial business occupancy shall comply with the provisions of this Code, whether or not such building shall have been constructed, altered, or repaired before or after the enactment of this article, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or for the installment or repair of equipment or facilities prior to the effective date of this article. This article establishes minimum standards for the initial and continual occupancy and use of all such buildings, and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building, equipment or facilities contained therein except as provided in section herein. Where there is mixed occupancy, any commercial business use therein shall be regulated by and subject to the provisions of this article.

(b) It shall be the duty of each and every owner, operator or other party in interest of a commercial building or premises to which this article is applicable to comply with the regulations and requirements set forth herein. No license, permit or certifications of occupancy shall be issued unless and until all applicable sections of this article have been complied with. No land or building or combination thereof, shall be used in a manner inconsistent with or in conflict with the requirements of this article.

(c) The provisions of this Code that apply to the exterior or exterior components of a building shall be complied with whether the structure or building is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured to prevent the entry of unauthorized persons or the occurrence of conditions not permitted by law in accordance with the standards set out herein.

(Ord. No. 03-450, § 1, 2-3-04)

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Sec. 16-242. Maintenance standards for commercial structures.

All commercial premises shall be maintained in a state of good repair that prevents further decay from wind, rain, and external weather and secures the building from any unauthorized admittance from humans, animals or birds. All commercial premises shall be free of all nuisances and any hazards to the safety of occupants, customers or other persons utilizing the premises or to pedestrians and/or vehicles passing thereby. Without limitation of the foregoing requirement, the existence of any of the following conditions shall be deemed to be a violation of this section and must be corrected:

- (1) Interior walls or vertical studs, which seriously list, lean or buckle, to such an extent as to render the building unsafe.
- (2) Supporting member or members which show thirty-three (33) percent or more damage or deterioration, or non-supporting; non-supporting members or enclosing or outside walls, or covering which shows fifty (50) percent or more of damage or deterioration.
- (3) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Such damage by fire, wind or other causes as to render the building unsafe.
- (5) Dilapidation, decay, unsanitary conditions or disrepair, which is dangerous to the health, safety and welfare of the occupants or other people in the city.
- (6) Inadequate facilities for egress to such an extent that there does not exist at a minimum, sufficient operable doors that the building can be entered safely and exited in the same manner in case of fire or panic.
- (7) Defects significantly increasing the hazards of fire, accident or other calamities.
- (8) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the city.
- (9) Lack of proper electrical, heating or plumbing facilities required by this article which constitutes a health or a definite safety hazard. If the electrical, heating or plumbing facilities are in such a condition that the service to those facilities needs to be discontinued to protect the general public, then the chief code enforcement officer shall be authorized to notify the appropriate official to disconnect service and that the service shall not be reconnected until the building has been re-inspected and cleared of all violations. Temporary service connections may be permitted to allow for construction and/or cleaning.
- (10) Any violation of the city Fire Prevention Code which constitutes a condition which is unsafe and especially dangerous to life.
- (11) Buildings and environs shall be kept clear of accumulations of garbage, trash, or rubbish, which creates health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary way.

- (12) Flammable, combustibles, explosive or other dangerous or hazardous materials shall be stored in a manner approved for such materials and consistent with the City Fire Prevention Code.
- (13) The building and environs shall be kept free of loose and insufficiently anchored overhanging objects, which constitute a danger of falling on persons or property.
- (14) The environs shall be kept free of insufficiently protected holes, excavations, breaks, projections, obstructions and other such dangerous impediments on and around walks, driveways, parking lots, alleyways and other areas which are accessible to and generally used by persons on or around the premises.
- (15) The building and environs surfaces shall be kept clear of cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic or other dangerous objects or similar hazardous conditions. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration and repaired or replaced with like or similar material according to its original use.
- (16) The building and environs shall be kept free of objects and elements protruding from building walls, roof and environs which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects.
- (17) All chimneys, flues and vent attachments thereto shall be maintained structurally sound. Chimneys, flues, gas vents or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases.
- (18) All exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair, and free of defects.
- (19) All cornices shall be made structurally sound. Rotten or weakened portions shall be repaired and/or replaced. All exposed wood shall be treated or painted.
- (20) Gutters and down-spouts shall be replaced or repaired as necessary and shall be appropriately located so as not to cause a hazard to pedestrian, vehicular traffic or property.
- (21) Attached and unattached accessory structures shall not cause a nuisance or safety hazard and shall be maintained in a state of good repair.
- (22) Advertising sign structures, attached or freestanding awnings, marquees and their supporting members and other similar attachments and structures shall be maintained in good repair and shall not cause a nuisance or safety hazard to the occupants, pedestrians or other residents of the city.

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- (23) Walls, partitions, 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.
 - (24) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used and shall not leak.
 - (25) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
 - (26) Interior steps, railings, landings, porches or other parts or appurtenances, shall be maintained in such condition that they will not fail or collapse.
 - (27) All plumbing fixtures and pipes shall meet the standards of the Plumbing Code and shall be maintained in a state of good repair and in good working order.
 - (28) All electrical 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 Electric Code.
 - (29) Every supplied facility, piece of equipment or utility which is required under this article or the Building Code for occupancy or use shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
 - (30) Adequate facilities for egress in case of fire or panic shall be provided and shall remain free from obstructions at all times for such purposes.
 - (31) All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints or broken or loose mullions.
 - (32) All windows shall be maintained free of broken or cracked glass that could be in danger of falling or shattering.
 - (33) All openings originally designed as windows, doors, loading docks, or other means of egress or ingress shall be maintained as such, unless the chief code enforcement officer specifically approves the closing and the materials being used to close the openings. If an opening is temporarily closed by boarding to secure the building, the boarding shall be trim fit, sealed to prevent water intrusion, and painted or stained to properly conform with the other exterior portions of the building.
 - (34) All yards and environs shall be properly graded and maintained so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
- (Ord. No. 03-450, § 1, 2-3-04)

Sec. 16-243. Hearing and notice of violation.

(a) Whenever it appears to the chief code enforcement officer that a building is in violation of a provision of this article, he shall issue and cause to be served upon the owner of such building a complaint stating the charges and containing a notice that a hearing will be held before the chief code enforcement officer at a place and time therein fixed, not less than ten nor

more than 30 days after the serving of said complaint. The owner shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Any person desiring to do so may attend 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 chief code enforcement officer. Following the hearing, the chief code enforcement officer shall dismiss the complaint if he finds no violation; if he finds that violations of this article exist, he shall order compliance setting forth a maximum of up to 180 days within which to correct the violations. Such order shall contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.

(b) If the chief code enforcement officer determines that the repairs, alterations or improvements necessary to bring the building into compliance with the provisions of this article can be made at a cost of less than 50 percent of the present value of the building, he shall state in writing his findings 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 and improve such building to comply with the standards contained herein.

(c) If the chief code enforcement officer determines that the repairs, alterations or improvements necessary to bring the building into compliance with the provisions of the article can not be made at a cost of less than 50 percent of the present value of the building, he shall state in writing his findings 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 either repair, alter and improve such building to comply with the standards contained herein or to demolish the building.

(Ord. No. 03-450, § 1, 2-3-04)

Sec. 16-244. Service of complaints and orders.

(a) Complaints and all orders issued by the chief code enforcement officer shall be served by the chief code enforcement officer upon persons either personally or by registered or certified mail. When service of a complaint or order is accomplished personally or by registered or certified mail, such service is hereby deemed to be complete on the day of delivery to or receipt by the person served. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or the whereabouts of persons are unknown and the same cannot be ascertained by the chief code enforcement officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail and the chief code enforcement officer makes an affidavit to that effect, then the serving of such complaint or order upon the owners or other persons may be made by publication in a newspaper of general circulation in the city at least once no later than the time

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at which personal service would be required under the provisions of this article. When service is made by publication, a copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order; in the case of the complaint, it must be posted at least ten days prior to the hearing.

(Ord. No. 03-450, § 1, 2-3-04)

Sec. 16-245. Failure to comply with orders.

(a) If the owner fails to comply with an order to repair the building or structure, the chief code enforcement officer may:

- (1) Cause such structure to be repaired, and pending such repairs, may order the building to be vacated and closed.
- (2) Cause to be posted on the main entrance of any structure so closed, a placard entitled, "notice of condemnation" with the following words: "notice is hereby given that this building is unsafe and dangerous condition; may constitute a fire hazard by reason of structural defects and general state of decay, deterioration and disrepair; may be hazardous or dangerous to children or members of the public generally, or may be dangerously infested with vermin rodents or insects. Such building has been condemned under the building laws of the State of North Carolina and the City of Gastonia".

(b) If the owner fails to comply with an order to remove or demolish the building, the chief code enforcement officer may;

- (1) Cause such structure to be removed or demolished;
- (2) Cause to be posted, pending demolition, on the main entrance of any structure so closed, a placard entitled, "notice of condemnation" with the following words: "notice is hereby given that this building is unsafe and dangerous condition; may constitute a fire hazard by reason of structural defects and general state of decay, deterioration and disrepair; may be hazardous or dangerous to children or members of the public generally, or may be dangerously infested with vermin rodents or insects. Such building has been condemned under the building laws of the State of North Carolina and the City of Gastonia".

(c) The duties of the chief code enforcement officer set forth in subsections (a) and (b) shall not be exercised until:

- (1) The city attorney shall institute in the general court of justice an appropriate action to seek an order of the court directing such owner to comply with the order of the chief code enforcement officer; or
- (2) The chief code enforcement officer shall request the council to order him by an ordinance specifically describing the subject property to do the following; either (i) to cause such building to be repaired, altered and improved to comply with the standards established by this article, or (ii) to cause such building to be vacated, closed, and removed or demolished. The council, in ordering one of the aforesaid alternatives, shall

order the specific action that will best effectuate the purposes of this article. Once the ordinance is adopted by the council a true copy of such ordinance shall be recorded in the office of the register of deeds of Gaston County and the registrar shall index the name of the property owner in the "grantor index,"

(d) The amount of the cost of repairs, alterations and improvements, or vacating, closing and removal or demolition shall be a lien against the real property upon which the cost was incurred. Such lien shall be filed, have the same priority and be collected as the lien for special assessment provided in Article 10, Chapter 160A of the North Carolina General Statutes. If the unsafe building is removed or demolished by the chief code enforcement officer, he shall, if possible, sell in any commercially reasonable manner the materials of the unsafe building and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition. Any balance remaining shall be deposited by the chief code enforcement officer with the clerk of superior court for subsequent disbursement by the court to the persons found by the court to be entitled thereto.

(d) Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedies provided herein or otherwise.

(e) Nothing in this section shall be construed to impair or limit in any way the power of the building inspector in the proper enforcement of the duties of his office, as assigned, nor shall the enforcement of one remedy provided herein prevent the enforcement of any other remedies provided herein or otherwise.

(Ord. No. 03-450, § 1, 2-3-04)

Sec. 16-246. Appeals

(a) An appeal from any decision or order of the chief code enforcement officer pursuant to this article may be taken by any person aggrieved thereby. Any appeal from the chief code enforcement officer shall be taken within ten days from the rendering of the decision, or if either the owner or his attorney was not present when the decision was rendered, then within ten days of service of such order. Such appeal shall be taken by filing with the chief code enforcement officer and with the board of adjustment created in chapter 17, article VII, of this Code (hereinafter called "the board") a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the chief code enforcement officer shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the chief 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 chief 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 chief 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 to the appellant),

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a suspension of his requirement would cause imminent peril to life or property. In that case, the requirement shall not be suspended except by a restraining order, which may be granted for due cause upon not less than one day's written notice to the chief code enforcement officer by the board, or by a court of record upon petition made pursuant to subsection (d) of this section. All regulations, fees and other rules of the board shall apply to these appeals as stated in section 16-132(d).

(b) The board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the chief code enforcement officer, but the concurring vote of four-fifths of the members of the board shall be necessary to reverse or modify any decision or order of the chief code enforcement 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, 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.

(c) If the board determines that the building is a building of historical value, the board may enter an order holding the matter in abeyance provided that the owner repairs the building on a timely basis. Such repairs shall commence within six months of the board's order and shall be completed within two years of said date. All such repairs shall be completed in such a way as to maintain the historic character of the building and shall comply with the United States Secretary of Interior standards for the treatment of historic rehabilitation. If the repairs are not commenced and completed within the time periods set out in the order, the chief code enforcement officer shall proceed to enforce his original order.

(d) Every decision of the board shall be subject to review by the Superior Court of Gaston County by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.

(e) Any person aggrieved by an order issued by the chief code enforcement officer or a decision rendered by the board shall have the right, within 30 days after the issuance of the order or rendering of a decision, to petition the superior court for a temporary injunction, restraining the chief code enforcement officer pending a final disposition of the cause.
(Ord. No. 03-450, § 1, 2-3-04)

Sec. 16-247. Violations and penalties.

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

for the owner of any building with respect to which an order has been issued pursuant to this article to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration and improvement or its vacation, closing and removal or demolition, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(b) Any owner of a building who fails to comply with any order described in subsection (a), or who allows occupancy of the building subject to such order after the compliance period in the order has expired, shall be subject to a civil penalty of \$250.00 for each day that noncompliance continues following the expiration of the compliance period specified in the order of compliance. If a person fails to pay the civil penalty within ten days of receipt of the citation, the city may seek to collect it in a civil action in the nature of a debt.

(c) Each day that a violation continues after notification that such violation exists shall constitute a separate and distinct offense for purposes of the penalties and remedies set forth in this section.

(d) This article may be enforced by any appropriate equitable action.

(e) This article may be enforced by any one, all, or any combination of the remedies authorized in this section.

(Ord. No. 03-450, § 1, 2-3-04)