

CHAPTER 150: BUILDING AND MINIMUM HOUSING REGULATIONS

Minimum Standard Housing Code

150.065	Short title
150.066	Exercise of police power; finding; purpose
150.067	Code declared remedial
150.068	Scope
150.069	Definitions
150.070	Existing buildings
150.071	Maintenance of buildings
150.072	Housing Inspector; duties and powers
150.073	Utility services to substandard buildings or dwelling units
150.074	Issuance of permit prior to inspection of substandard buildings or dwelling units
150.075	Minimum standards of fitness
150.076	Certificate of compliance
150.077	Plumbing systems and equipment
150.078	Ventilation
150.079	Electrical systems
150.080	Heating
150.081	Space; use and location
150.082	Safe and sanitary maintenance
150.083	Insects, rodents, and infestations
150.084	Structural condition
150.085 (A)	Rooming house minimum standards
150.085 (B)	Abandoned Structures
150.086	Responsibilities of owners and occupants
150.087	Preliminary investigation; notice; hearing
150.088	Procedure after hearing
150.089	Civil penalties; recovery of costs
150.090	Failure to comply with order
150.091	Appeals from orders of Housing Inspector
150.092	Petition to Superior Court by owner
150.093	Methods of service of complaints and orders
150.094	Conflict with other provisions
150.095	Fee schedule

§ 150.065 SHORT TITLE.

This subchapter shall be known and may be cited as “The Minimum Standard Housing Code of the City of Bessemer City,” and will be hereinafter called this subchapter.
(Ord. 94-8-4, passed 8-8-94)

**§ 150.066 EXERCISE OF POLICE POWER;
FINDING; PURPOSE.**

(A) *Finding.* Pursuant to G.S. § 160A-441, it is hereby found and declared by the City Council 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) *Purpose.* In order to protect the health, safety and welfare of the residents of the city as authorized by G.S. Ch. 160A, Article 19, part 6, it is the purpose of this subchapter 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.
(Ord. 94-8-4, passed 8-8-94)

§ 150.067 CODE DECLARED REMEDIAL.

This code is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes hereof 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, rooming houses, or buildings, structures, or premises used as such.

(Ord. 94-8-4, passed 8-8-94)

§ 150.068 SCOPE.

(A) The provisions of this subchapter 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 subchapter, 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.

(Ord. 94-8-4, passed 8-8-94)

Cross-reference:

See Chapter 151, Mobile Homes

§ 150.069 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Whenever the words *apartment, apartment house, dwelling, dwelling unit, rooming house, rooming unit, premises, or structure* are used in the code, they shall be construed as though they were followed by the words *or any part thereof*.

ALTER or ALTERATION. Any change or modification in construction or occupancy.

APARTMENT. A room or a suite of rooms occupied, or which is intended or designated to be occupied, as the home or residence of one individual, family or household, for housekeeping purposes.

APARTMENT HOUSE. See **MULTIPLE DWELLING**.

APPROVED. Approved by the Inspections Superintendent or his authorized agent.

AREA. As applied to the dimensions of a building, the maximum horizontal projected area of the building at grade (See **FLOOR AREA**).

ATTIC STORY. Any story situated wholly or partly in the roof, so designated, arranged, or built as to be used for business, storage or habitation.

BASEMENT. A portion of a building located partly underground, but having more than ½ 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.

BUILDING. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

BUILDING CODE. Any edition, together with all adopted amendments and supplements thereto, of the State Building Code or of the State Uniform Residential Building Code, or any other building rules or regulations adopted by the city relating to the buildings and structures.

BUILDING, EXISTING. A building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

CELLAR. A portion of a building located partly or wholly underground, having ½ 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.

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 subchapter, at a cost not in excess of 50% of its value, as determined by the Inspections Superintendent. Repair at a cost not in excess of 50% of the value is hereby deemed reasonable pursuant to G.S. § 160A-443(3).

DILAPIDATED. A dwelling that is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this chapter only at a cost in excess of 50% of its value, as determined by the Inspections Superintendent.

DWELLING. Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing as hereinafter defined shall not be regarded as a dwelling.

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

EXTERMINATION. The control and elimination of insects, rodents, or other pests by 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.

FLOOR AREA. The area included within surrounded walls of a building exclusive of vent shafts and courts.

GARBAGE. The animal and vegetable waste resulting from handling, preparation, cooking, and consumption of food.

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.

HEATING. The definitions following under **HEATING** shall apply to heating installations:

(1) **CENTRAL HEATING BOILERS AND FURNACES.** Includes 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.

(2) **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.

(3) **FLUE.** A vertical passageway for products of combustion.

(4) **VENT PIPE.** As applied to heating, means a pipe for removing products of combustion from gas appliances.

(5) **WATER HEATER.** A device for the heating and storage of water to be used for other than heating or industrial purposes.

HOUSING INSPECTOR. The public officer authorized to exercise the powers of this code, and such designation includes his duly authorized representative.

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

MULTIPLE DWELLING. Any dwelling containing more than one dwelling unit.

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.

OPENABLE AREA. That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

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

ORDINARY MINIMUM WINTER CONDITIONS. The temperature 20° F. above the lowest recorded temperature for the previous 15-year period.

OWNER. Any person who jointly or severally:

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

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.

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:

- (1) Sanitary drainage or storm drainage facilities.
- (2) The venting system and the public or private water supply system, and the public or private water supply systems within or adjacent to any building, structure, or conveyance.
- (3) The practice and materials used in the installation, maintenance, extension, or alteration of storm water, liquid waste, or sewerage, and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

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

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

RUBBISH. Combustible and noncombustible waste materials, except garbage. 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.

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.

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

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

UNFIT FOR HUMAN HABITATION. Conditions that exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the provisions established by this code.

WALLS.

- (1) **BEARING WALL.** A wall which supports any vertical load in addition to its own weight.

(2) **EXTERIOR WALL.** A wall, bearing or non-bearing, which is used as an enclosing wall for a building, but which is not necessarily suitable for use as a party wall or fire wall.

(3) **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.
(Ord. 94-8-4, passed 8-8-94)

§ 150.070 EXISTING BUILDINGS.

The provisions of this code shall apply to any dwelling, apartment house, or rooming house irrespective of when the building was constructed, altered, or repaired:

(A) If, within any period of 12 months, alterations or repairs are made to an existing building costing in excess of 50% of the then physical value of the building, such building shall be made to conform to the requirements of the building code for like new buildings.

(B) If an existing building is damaged by fire or otherwise in excess of 50% of its then physical value before such damage is repaired, it shall be made to conform to the requirements of the building code for new buildings.

(C) If the cost of such alterations or repairs, or the amount of such damage, is more than 25% but not more than 50% 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 code for the new building to such extent as the Building Official may determine.

(D) Repairs and alterations not covered by divisions (A) through (C) of this section, restoring a building to its condition previous to damage or deterioration, or altering it 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.

(E) For the purposes of this section the physical value of a building or structure, as hereinbefore mentioned, shall be determined by the Inspections Superintendent, and he shall use as a guideline the fair market value of the building exclusive of land.
(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.071 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.
(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.072 HOUSING INSPECTOR; DUTIES AND POWERS.

(A) *Establishment; duties and powers.* Pursuant to G.S. § 160-443 there is hereby created and established a position to be known as the Housing Inspector, who shall be appointed by the City Manager and designated as the public officer to exercise the duties and powers prescribed in this subchapter.

(1) It shall be the duty of the Housing Inspector:

(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 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 appropriate departments and agencies, public or private, as may be necessary to carry out the general spirit and purpose of this code.

(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 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 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 subchapter.

(2) Pursuant to G.S. § 160A-448, the Housing Inspector 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 purposes of this subchapter.

(e) To delegate any of his functions and powers under this code to other officers and other agents.

(B) *Housing Inspector appointed.* There is hereby created and established a position to be known as the Housing Inspector appointed by the City Manager.

(E) *Records.* The Housing Inspector shall keep, or cause to be kept, a record of the business of the Inspections Division. The records of the Inspector shall be open to public inspection.
(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.073 UTILITY SERVICES TO SUBSTANDARD BUILDINGS OR DWELLING UNITS.

The city shall not provide, nor permit another to provide (either public or private) utility services such as water, gas, electricity, sewer, and the like, to any substandard building or dwelling unit which becomes vacant until such building or dwelling has been inspected, brought into compliance with this code, 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.
(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.074 ISSUANCE OF PERMIT PRIOR TO INSPECTION OF SUBSTANDARD BUILDINGS OR DWELLING UNITS.

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.
(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.075 MINIMUM STANDARDS OF FITNESS.

All buildings, dwelling units, and rooming units shall provide for a healthful environment with living facilities

arranged and equipped to assure such a condition. Under §§ 150.076 through 150.084 appear the fundamental requirements of this code which shall be observed in determining the fitness of a building for human habitation. (Ord. 94-8-4, passed 8-8-94)

§ 150.076 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, 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.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.077 PLUMBING SYSTEMS AND EQUIPMENT.

Minimum standards for plumbing systems and equipment shall be that every building and dwelling unit (and where applicable, rooming unit) shall contain not less than the following:

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

(B) 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.

(C) Plumbing, all of which meets the standards of the adopted plumbing code and which is in a state of good repair and in good working order.

(D) 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.

(E) Installations of all hot water heating appliances according to the plumbing 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 less than 120° F.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.078 VENTILATION.

Minimum standards for ventilation shall be that every building, dwelling unit, and rooming unit shall contain not less than the following:

(A) *Windows, and the like.* Every habitable room shall have a least one window or skylight facing directly to the outdoors. The minimum size shall be 8% 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% of the total floor area of such room.

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

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

(D) *Air conditioning.* 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.
(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.079 ELECTRICAL SYSTEMS.

Minimum standards for electrical systems shall be that every building, dwelling unit, and rooming unit shall contain not less than the following:

(A) Every building, dwelling unit, 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. 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.

(B) *Hallways.* 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.

(C) *Smoke detectors.* A minimum of one approved listed smoke detector shall be installed in accordance with manufacturer's recommendation and listing and maintained in working condition.

(D) All fixtures, receptacles, equipment and wiring should 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.

(E) 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.
(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.080 HEATING.

Minimum standards for heating shall be that every building, dwelling unit, and rooming unit shall have facilities for providing heat in accordance with either division (A) or (B) of this section, as well as complying with division (C) of this section:

(A) *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 70° F. measured at a point three feet above the floor during ordinary minimum winter conditions.

(B) *Other heating facilities.* By October 1, 1995, where a central or electrical 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 70° F. 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 State Building Code.

(C) *Installation and maintenance.* Heating appliances and facilities shall be installed in accordance with the building code adopted by the city, and shall be maintained in safe and good working condition.
(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.081 SPACE; USE AND LOCATION.

Minimum standards for space, use and location shall be that every building, dwelling unit, and rooming unit shall contain not less than the following:

(A) *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 of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.

(B) *Room sizes.*

(1) Every dwelling unit and rooming unit shall contain at least the minimum room size in each habitable room as required by the building code adopted by the city.

(2) 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.

(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 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy.

(C) *Occupant.* For the purpose of this division, a person under one year-of-age shall not be counted as an occupant.

(D) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet.

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

(F) *Basement.* No basement shall be used for living purposes unless the floor and walls are substantially watertight, the total window area, total open-able window area and ceiling height are equal to those required for habitable rooms, and 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 stair- well, window well or access way. (Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.082 SAFE AND SANITARY MAINTENANCE.

Minimum standards for safe and sanitary maintenance shall be that every building, dwelling unit, and rooming unit shall comply at least with the following:

(A) *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, and shall be safe to use, and capable of supporting the load which normal use may cause to be placed thereon. Exterior surfaces not inherently resistant to deterioration shall be treated with a protective coating or covering and maintained in good repair to prevent deterioration.

(B) *Insulation.* Every dwelling unit shall have a minimum of R-19 insulation in the attic area. The approved types include blown insulation, batt insulation, or other insulation equivalent to a total of R-19 insulation value. 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 Housing Inspector or designee can grant a waiver of this requirement in the event that this requirement would necessitate major alteration of the structure, or would produce harmful accumulations of heat or moisture that cannot be removed by ventilation.

(C) *Interior floors, walls and ceilings.* Every floor, interior wall, and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair, and shall be safe to use and capable 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.

(D) *Windows and doors.* Every window, exterior door, and basement or cellar door and hatch-way 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, 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.

(E) *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.

(F) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be substantially imperious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

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

(H) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(I) *Egress.* Every dwelling unit shall be provided with means of egress as required by the building code adopted by the city.

(J) *Noxious weeds.* Every yard and all exterior property areas 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.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.083 INSECTS, RODENTS, AND INFESTATIONS.

Minimum standards for control of insects, rodents, and infestations shall be that every building, dwelling unit, and rooming unit shall at least comply with the following:

(A) *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.

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

(C) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this division, whenever infestation is caused by failure of the actual owner to maintain a dwelling in a rodent-proof or reasonably insect-proof 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 containing two or more dwelling units, extermination thereof shall be the responsibility of the owner, and not the tenant.

(D) *Rubbish.* Every dwelling unit shall be supplied with adequate rubbish storage facilities.

(E) *Garbage.* Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers in accordance with Chapter 52 of this code.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.084 STRUCTURAL CONDITION.

Minimum standards for structural condition shall be that every building, dwelling unit, and rooming unit shall at

least comply with the following:

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

(B) Floors or 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 exist, the roof coverings will not have to be removed until the current roof covering has deteriorated).

(C) Foundations, foundation walls, piers or other foundation supports shall be maintained in such condition that they will not fail or collapse.

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

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

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

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

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

(I) There shall be no use of the ground for floors, or wood floors on the ground.
(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.085 (A) ROOMING HOUSE MINIMUM STANDARDS.

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

(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 passage and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in 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 division (A) of this section shall be located within the rooming house and within a room or rooms which 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.
(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.085 (B) 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 150.087, 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 150.087, 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 150.087.

(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 90 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 90 days. Such ordinance shall be recorded as provided in section 150.090 (B), 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 150.090 (B).

§ 150.086 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(A) *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, or rooming unit shall keep in a clean and sanitary condition that part of the dwelling and premises thereof 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.

(B) *Rubbish and garbage.*

(1) Except as stated below in division (B)(2), every owner of a building, dwelling unit, and rooming unit shall be responsible for the availability of rubbish and garbage storage facilities.

(2) Every occupant of a building, dwelling unit, 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 storage facilities.

(C) *Supplied plumbing fixtures.*

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

(2) Every occupant of a building, dwelling unit, 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.

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

(E) *Extermination.* For the responsibilities of occupants concerning extermination, see § 150.083(C) of this subchapter.

(F) *Care of premises.* It shall be unlawful for the owner or occupant of a building, dwelling unit, 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, and the like. It is hereby noted that for the purposes of this division an abandoned motor vehicle is defined as one that is in a state of disrepair and incapable of being moved under its own power.

(G) *Inspections and examinations.*

(1) Every owner of a building, dwelling unit, or rooming unit shall give the Housing Inspector free access to such property at all reasonable times for the purposes of any inspection, examination or survey being conducted by the Inspections Superintendent or his office.

(2) Every occupant of a building, dwelling unit, or rooming unit shall give the owner thereof access to any part of such building, dwelling unit or rooming unit at all reasonable times for the purpose of the owner making such repairs or alterations as are necessary to affect 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, or rooming unit shall give the Inspections Superintendent free access to such building, dwelling unit, or rooming unit at all reasonable times for the purposes of any such inspection, examination, or survey conducted pursuant to this chapter. (Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

**§ 150.087 PRELIMINARY INVESTIGATION;
NOTICE; HEARING.**

(A) Whenever a petition is filed with the Inspections Superintendent 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 Housing Inspector, 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 § 150.069, of such unsafe building a complaint stating the charges and containing a notice that a hearing will be held before the Housing Inspector at a place and time therein fixed, not less than ten nor more than 30 days after the serving of the 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 Housing Inspector.

(B) At the hearing, the Housing Inspector 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:

- (1) Defects therein increasing the hazards of fire, accidents, or other calamities.
 - (2) Failure in any way to conform to the minimum standards set forth in this code.
 - (3) 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.
- (Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.088 PROCEDURE AFTER HEARING.

After such notice and hearing, the Inspections Superintendent shall state in writing his determination whether the unsafe building is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

(A) If the Housing Inspector 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 the unsafe building until such repairs, alterations, and improvements have been made. Upon application by the owner within the specified period of time, the Inspections Superintendent may grant extensions of up to one year if the unsafe building is occupied by the owner, or up to 180 days if the dwelling is not occupied by the owner, for good cause shown.

(B) If the Housing Inspector 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 by the owner within the time provided for compliance and granted by the Housing Inspector for good cause shown.

(C) Within ten days from the date of the order determining that the building is dilapidated, the owner may notify the Housing Inspector in writing of his intent to make such repairs or alterations to the dwelling so as to comply with the minimum standards of fitness. Upon receipt of an owner's written intent to repair the dwelling, within the time provided herein, the Housing Inspector 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 Inspections Superintendent 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 Inspections Superintendent for good cause shown. Upon application by the owner within the specified period of time, the Housing Inspector may grant extensions of up to one year if the dwelling is occupied by its owner, or up to 180 days if the dwelling is not occupied by its owner, for good cause shown.

(D) *Extensions and appeals.* In order to be considered for any extension of time for compliance with an order issued pursuant to this subchapter, the owner must have made a good faith effort to comply with the order and all dangerous conditions must have been repaired. The Inspections Superintendent shall have sole authority to grant extensions. City Council shall have no authority to hear or act upon extension requests or appeals of any order issued by the Housing Inspector.

(E) 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 Inspections Superintendent to the Board of Adjustment within the time specified for such an appeal, the Housing Inspector shall proceed in accordance with the provisions of § 150.089(A) or (B) of this subchapter.

(F) Whenever a determination is made pursuant to division (B) 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 Housing Inspector, 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 Housing Inspector 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 Inspections Superintendent to wait 45 days before causing removal or demolition.

(G) If the Code Enforcement officer shall have issued an order, ordering a dwelling to be repaired or vacated and closed, pursuant to § 150.087 (B), and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order, then if the city council 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, then in such circumstances, the governing body may, after the expiration of such one year period, enact an ordinance on the owner, setting forth 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 fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or

(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 fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

The ordinance shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Code Enforcement officer shall effectuate the purpose of the ordinance.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

Statutory reference: For statutory authorization of ordinances to repair, close, or demolish buildings, see G.S. § 160A-443

§ 150.089 CIVIL PENALTIES; RECOVERY OF COSTS.

(A) *Administrative fees and costs.* The City Council may from time to time adopt a schedule of administrative fees to be charged and collected by the Housing Inspector in order for the city to recover its costs in administering and enforcing this chapter.

(B) *Authority to assess civil penalties.* When the Housing Inspector finds that the owner has violated or continues to violate any provision of this chapter, or any order, rule, or regulation issued hereunder, the Housing Inspector may assess a civil penalty to such owner, as provided in § 150.999.

(C) *Costs and attorneys fees.* The Housing Inspector may recover attorneys fees, court costs, and other expenses associated with the enforcement activities undertaken pursuant to this chapter, including the cost of determining ownership, expenses of notification, attorneys fees, and the cost of any actual damages incurred by the city.

(D) *Determination of the amount.* In determining the amount of civil penalty to be assessed, the Housing

Inspector may consider any other relevant circumstances, but shall consider the following:

- (1) The degree or extent of dilapidation or deterioration, public harm, the gravity of the violations of the Minimum Housing Code and the danger to the public health resulting from the violations.
- (2) The gravity and duration of the violations.
- (3) The cost to the city caused by the violations.
- (4) The amount of money saved by non-compliance and any other economic benefit gained through the owner's violations.
- (5) Whether the violations have been committed willfully and intentionally.
- (6) The prior record of the owner in complying or failing to comply with the minimum housing provisions of this chapter.
- (7) The cost for enforcement by the city.

(E) *Collection.* Actions for the collection of civil penalties shall be referred to the City Attorney for collection.

(F) *Appeals.* The person who has been assessed a civil penalty by the Housing Inspector and who desires to dispute such penalty, must file a written notice of appeal with the City Manager and follow the procedures set forth in this chapter for prosecuting appeals. During the pendency of such appeal the assessment of such penalties shall be stayed.

(G) *Assessment not a bar.* Assessment of a civil penalty shall not be a bar against or prerequisite for the taking of any other action against the owner.

(H) *Other available remedies, injunctive relief.* In addition to the remedies previously provided in this chapter, the Housing Inspector may use any one or combination thereof against a non-compliant owner or person entitled to possession. Additional remedies shall include but are not limited in injunctive relief sought through a petition filed with the General Court of Justice by the City Attorney for the issuance of such injunctive relief as may be appropriate seeking to restrain or compel the activities necessary to comply with the provisions of this chapter. (Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.090 FAILURE TO COMPLY WITH ORDER.

(A) *In personam remedy.* If the owner of any deteriorated unsafe building shall fail to comply with an order of the Inspections Superintendent to repair, alter, or remove 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 Housing Inspector to vacate, close, and remove or demolish the same within the time specified therein, the Housing Inspector 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 Housing Inspector, as authorized by G.S. § 160A-446(g).

(B) *In rem remedy.* If the owner of any deteriorated unsafe building shall fail to comply with an order of the Housing Inspector 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 Housing Inspector 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 § 150.089 (A), then in any of these events and pursuant to G.S. § 160A-443(4) and (5) the Housing Inspector shall request the Council to order him by an ordinance specifically describing the subject property to do the following, either to cause such unsafe building to be repaired, altered, and improved to comply with the minimum standards of fitness established by this code, or 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 Registrar 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 Housing Inspector shall forthwith cause such repair, alteration, and improvement or closing, vacation 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 G.S. Ch. 160A, Article 10. If the unsafe building is removed or demolished by the Inspections Superintendent, 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 Housing Inspector with the clerk of superior court for subsequent disbursement by the court to the persons found by the court to be entitled thereto.

(C) If any occupant fails to comply with an order to vacate a dwelling, the Housing Inspector may file a civil action in the name of the city to remove such occupant. Such action shall be filed and conducted in accordance with the provisions of G.S. § 160A-443(7).

(D) 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.

(E) *Placarding.* After there has been a failure of the owner to comply with an order of the Housing Inspector to repair, alter and improve, or to vacate, close, and remove or demolish the unsafe building, then the Housing Inspector 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.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.091 APPEALS FROM ORDERS OF HOUSING INSPECTOR.

(A) An appeal from any director or order of the Housing Inspector may be taken by any person aggrieved thereby. Any appeal from the Housing Inspector 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 Housing Inspector and with the Board of Adjustment created in Chapter 155, Zoning 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 Housing Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When any appeal is from a decision of the Housing Inspector 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 Housing Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Housing Inspector 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 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 Housing Inspector by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-466(f) and this division (A).

(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 Housing Inspector, 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 Housing Inspector.

(C) 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 adopt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

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

(Ord. 94-8-4, passed 8-8-94)

§ 150.092 PETITION TO SUPERIOR COURT BY OWNER.

Any person aggrieved by an order issued by the Housing Inspector 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 Inspector pending a final disposition of the cause, as provided by G.S. § 160A-466(f).

(Ord. 94-8-4, passed 8-8-94)

§ 150.093 METHODS OF SERVICE OF COMPLAINTS BY OTHERS.

(A) Complaints and all orders issued by the Housing Inspector shall be served by the Housing Inspector upon persons either personally, by registered or certified mail, or served by the City Police Department, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Housing Inspector in the exercise of reasonable diligence, the Housing Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same pursuant to G.S. § 1A-1, Rule 4(j1). Where 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. 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 of a complaint or order is accomplished by publication as aforesaid, such service is hereby deemed to be complete on the day 40 days after the first day of the publication.

(Ord. 94-8-4, passed 8-8-94)

(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.

§ 150.094 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.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

§ 150.095 FEE SCHEDULE.

Because of budgetary considerations and because the city deems it appropriate to place the monetary burden of enforcing the minimum housing code on the owners of property who fail or refuse to maintain their property so as to meet the minimum standards of fitness for human habitation, the City Council hereby adopts the following schedule of administrative fees:

- | | |
|--|-----------|
| (A) Initial inspection of dwelling or building | No Charge |
| (B) Second inspection for corrections | No Charge |
| (C) Third inspection | \$25 |

(D) Fourth and subsequent inspections \$50 each

(E) Hearing before Inspection Officer (after hearing):

(1) House found not in violation No Charge

(2) House found in violation; collect the following fees as appropriate:

(a) Title exam\$250

(b) Hearing fee\$150

(c) Service on parties

(d) Photo fee\$10

(e) Order/ordinance fee\$50

(per person)\$5

(F) If court action is necessary, the city shall seek recovery of its reasonable attorney fees and court costs for the prosecution or defense of the actions of the city.

(Res. passed 8-8-94) Penalty, see § 150.999