

# **AN ORDINANCE TO AMEND THE CODE OF GENERAL ORDINANCES OF THE TOWN OF ORIENTAL TO ADD CHAPTER I – MINIMUM HOUSING CODE**

THAT WHEREAS, the Planning Board of the Town of Oriental recommends that certain amendments be made to the Code of General Ordinances of the Town of Oriental; and

WHEREAS, the Board of Commissioners of the Town of Oriental deems it advisable and in the public interest to amend the Code of General Ordinances of the Town of Oriental to add Chapter I – Minimum Housing Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF ORIENTAL:

SECTION 1. That the Code of General Ordinances of the Town of Oriental be and the same is hereby amended by adding Chapter I – Minimum Housing Code as follows:

## **“CHAPTER I. MINIMUM HOUSING CODE**

### **ARTICLE I. IN GENERAL**

#### **Section 1. Purpose and authority.**

The Board of Commissioners hereby finds and declares that there exists within the town limits dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and or sanitary facilities; or other conditions rendering such dwellings buildings unsafe or unsanitary, or dangerous or detrimental to the health, safety, or morals or otherwise inimical to the welfare of the residents of the town, and that public necessity exists to exercise the police powers of the town to cause the repair and rehabilitation, closing, or demolishing of such dwellings in the manner provided by this chapter.

The Board of Commissioners further finds that there exists within the town limits abandoned structures that constitute a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. A public necessity exists for the repair, closing, or demolishing of such abandoned structures in the manner provided by this chapter.

The purpose of this chapter is to arrest, remedy, and prevent the decay and deterioration of places of habitation and to eliminate blighted neighborhoods by providing minimum requirements for places of habitation for the protection of the life, health, welfare, safety, and property of the general public and the owners and occupants of places of habitation.

This chapter shall be known as the “Minimum Housing Code,” may be cited as such, and will be referred to herein as “this chapter.”

*State law reference – G.S. 160D-1201.*

## **Section 2. Scope.**

The provisions of this chapter are applicable to all residential buildings and accessory structures within the town limits, as now or hereafter fixed. Relocatable, portable, modular, and temporary buildings or structures, when used for or intended for the use of human habitation, shall be subject to the applicable provisions of this chapter.

## **Section 3. Chapter supplemental.**

The powers conferred upon the inspector by the provisions of this chapter shall be in addition and supplemental to the powers conferred upon the inspector. Nothing in this chapter shall be construed to impair or limit in any way the power of the inspector to use other lawful remedies for violation of any of the provisions of this chapter. The measures and procedures herein provided for do not supersede or repeal any other measures or procedures which are provided by ordinance or state law for the elimination, repair, or correction of the conditions referred to in section this chapter, but the measures and procedures herein provided for shall be in addition to the same.

## **Section 4. Definitions.**

Certain abbreviations, terms, phrases, words, and their derivatives shall be construed as specified in this chapter. Terms, words, phrases, and their derivatives used but not specifically defined in this chapter shall have the meaning specifically defined in the building code.

*Alter, repair, bring into compliance* or similar words mean that the work is workmanlike and performed in a workmanlike manner.

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

*Building* means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term “building” shall be construed as if followed by the words “or part thereof.”

*Building inspector or inspector* means the Pamlico County Inspections Director or his designee.

*Demolish* means the demolition and removal of the entire building leaving the property free and clear of any debris and without holes or pockets which may retain water.

*Deteriorated* means that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of 75 percent of its value, as determined by findings of the inspector.

*Dilapidated* means that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of 75 percent of its value, as determined by findings of the inspector.

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

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

*Extermination* means the control and elimination of insects, rodents or other pests by 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 methods approved by the inspector.

*Garbage* means the animal and vegetable refuse resulting from the handling, preparation, cooking and consumption of food, including a minimal amount of liquid incidental thereto.

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

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

*Inspection* means all inspections, examinations, investigations, and similar activities.

*Manufactured home or mobile home* means a structure as defined in G.S. 143-145(7), which is a structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. *Manufactured home* includes any structure which meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the U.S. Department of Housing and Urban Development and complies with the National Manufactured Housing Construction and Safety Standards Act of 1974.

For manufactured homes built before June 15, 1976, *manufactured home* means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. *Manufactured home* also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their

own chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over 8 feet in width.

*Multiple dwelling* means any dwelling containing two (2) or more dwelling units.

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

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

*Owner* means the holder of the title in fee simple and every mortgagee of record.

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

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

*Public officer* means the officer or officers who are authorized by this ordinance to exercise the powers prescribed herein.

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

*Vacate and close* means to secure a dwelling from intrusion or entry by trespassers or other individuals except as necessary to effectuate the purposes of this article.

*Valuation* or *value* means the assessed tax value of a residential structure determined by the Pamlico County Tax Department or the fair market value as determined by a qualified real estate appraiser with proper credentials to determine fair market value.

## **ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

### **Section 5. Designation of enforcement officer.**

The building inspector is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed.

*State law reference – G.S. 160D-1203.*

### **Section 6. Powers of enforcement officer.**

The building inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers, in addition to others granted by this chapter:

- (a) Investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation.
- (b) Administer oaths, affirmations, examine witnesses, and receive evidence.
- (c) Enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.
- (d) Appoint and fix the duties of officers, agents, and employees as he or she deems necessary to carry out the purposes of this chapter.
- (e) Delegate any of his or her functions and powers under the ordinance to other officers and other agents.

*State law reference – G.S. 160D-1210.*

#### **Section 7. Duties of enforcement officer.**

- (a) It shall be the duty of the building inspector to:
  - (1) Diligently examine buildings, dwellings, units, and accessory structures located in the town for the purpose of locating and taking action with respect to such buildings, dwellings, units, and structures as appear to be unfit for human habitation. Reasonable cause to inspect means any of the following:
    - (i) There has been a complaint that substandard conditions exist within the building or dwelling unit;
    - (ii) There has been a request that the building or dwelling unit be inspected;
    - (iii) The building inspector has actual knowledge of an unsafe condition within the building and/or dwelling unit;
    - (iv) Violations of the local ordinances or codes are visible from the outside of the property; and
    - (v) The owner has a history of more than two (2) uncured verified violations of the housing ordinances or codes within a twelve-month period.
- (b) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated.

(c) Keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness prescribed in this chapter.

(d) Perform such other duties as may be prescribed in this chapter.

*State law reference — G.S. 160D-1207(a).*

### **Section 8. Residential buildings unfit for human habitation.**

The housing inspector shall determine that a residential building is unfit for human habitation if he finds that any of the following conditions exist in such a building, taking into consideration the minimum standards set forth in Article III:

(a) Interior walls or vertical studs which seriously list, lean or buckle to such an extent as to render the building unsafe.

(b) Supporting member or members which show thirty-three (33) percent or more damage or deterioration or non-supporting enclosing or outside walls or covering which shows fifty (50) percent or more of damage or deterioration.

(c) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

(d) Such damage by fire, wind or other causes as to render the building unsafe.

(e) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people in the town.

(f) Inadequate facilities for egress in case of fire or panic.

(g) Defects significantly increasing the hazards of fire, accident or other calamities.

(h) 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 town.

(i) Lack of proper electrical, heating or plumbing facilities required by this chapter which constitutes a health or a definite safety hazard.

*State law reference — G.S. 160D-1205.*

### **Section 9. Procedure for enforcement.**

(a) *Investigation, complaint, hearing.* Whenever a petition is filed with the inspector by a public authority or by at least five residents of the town charging that any dwelling,

dwelling unit or accessory structure is unfit for human habitation, or when it appears to the inspector, upon inspection, on his own motion, that any dwelling, dwelling unit or accessory structure is unfit for human habitation, the inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and any parties in interest in such dwelling, dwelling unit or accessory structure, a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the inspector, or the inspector's designated agent, at a place within the county in which the property is located. The hearing shall not be less than 10 nor more than 30 days after the serving of the complaint. The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in administrative hearings before the inspector.

(b) *Orders.* If, after notice and hearing pursuant to subsection (a) of this section, the inspector determines that the dwelling, dwelling unit or accessory structure is deteriorated or dilapidated, the inspector shall state in writing his findings of fact in support of his determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:

(1) If the inspector determines that the dwelling, dwelling unit or accessory structure is deteriorated, directing and requiring the owner to repair, alter or improve the dwelling, dwelling unit or accessory structure to comply with the minimum standards of fitness established by this chapter in order to render it fit for human habitation within a specified period of time, not to exceed 365 days. The order may also direct and require the owner to vacate and close such dwelling, dwelling unit or accessory structure until such repairs, alterations, and improvements have been made, but only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of eighteen or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under subsection (c).

(2) If the inspector determines that the dwelling, dwelling unit or accessory structure is dilapidated, directing and requiring the owner to vacate and close the dwelling, and to remove or demolish it and clear the debris therefrom, or repair, alter or improve it to comply with the minimum standards of fitness established by this chapter in order to render the dwelling or dwelling unit fit for human habitation within a specified period of time, not to exceed 365 days. However, notwithstanding any other provision of law, if the dwelling, dwelling unit or accessory structure is located in a historic district of the town and the historic district commission determines, after a public hearing as provided by ordinance, that the dwelling, dwelling unit or accessory structure 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. 160D-949.

(3) Whenever a determination is made pursuant to subdivision (2) of this section that a dwelling or dwelling unit 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 building 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 building inspector or town 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 building inspector to wait 45 days before causing removal or demolition.

(c) *Repair, closing, and posting.* If the owner of any deteriorated dwelling, dwelling unit or accessory structure shall fail to comply with an order of the inspector issued pursuant to subsection (b)(1) of this section, the inspector may cause the dwelling to be repaired, altered or improved or to be vacated and closed, and the inspector may cause to be posted on the main entrance of any such dwelling, dwelling unit or accessory structure so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the inspector as set forth in this section shall not be exercised until the board of commissioners has adopted an ordinance ordering the inspector to cause the dwelling or dwelling unit to be vacated and closed, or to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter. This ordinance shall be recorded in the office of the register of deeds of Pamlico County and shall be indexed in the name of the property owner in the grantor index.

(d) *Demolition.* If the owner of a dilapidated dwelling shall fail to comply with an order of the inspector issued pursuant to subsection (b)(3) of this section, the inspector may cause such dwelling, dwelling unit or accessory structure to be removed or demolished, but only after the board of commissioners has adopted an ordinance ordering the inspector to cause the dwelling, dwelling unit or accessory structure to be vacated and closed, removed or demolished and the debris therefrom cleared, and, pending such removal or demolition, to placard such dwelling, dwelling unit, accessory structure as provided by subsection (c). This ordinance shall be recorded in the office of the Pamlico County register of deeds and shall be indexed in the name of the property owner in the grantor index. Notwithstanding any other provision of this minimum housing code, no such ordinance shall be adopted to require demolition of a dwelling, or dwelling unit or accessory structure until the owner has first been given a reasonable opportunity to bring it into conformity with this minimum housing code.

(e) *Abandonment of intent to repair.* If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subdivision (b)(1) of this section or after the building inspector issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subdivision, then the board of commissioners may 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, and welfare of the local government 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 that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the board of commissioners may, after the expiration of such one-year period, enact an ordinance and serve such 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.

(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.

This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

(f) *Civil action to remove tenant.* If any occupant fails to comply with an order to vacate a dwelling, dwelling unit, or accessory structure, the inspector may file a civil action in the name of the town to remove such occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint, naming as defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place, not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. If the summons appears to have been duly served, and if at the hearing the inspector produces a certified copy of an ordinance adopted by the board of commissioners pursuant to section subsection (d) authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this section unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing body has ordered the inspector to proceed to exercise his duties under subsections (c) and (d) to vacate and close or remove and demolish the dwelling.

(g) *Appeal.*

(1) An appeal from any decision or order of the inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the town to the zoning board of adjustment. Any appeal from the inspector shall be taken within ten days from the rendering of the decision or service of the order by filing with the inspector and with the zoning board of adjustment a notice of appeal, which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the board all papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the 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 taken from a decision of the 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 inspector certifies to the board, after the notice of appeal is filed with him, that because 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 shown upon not less than one day's written notice to the inspector by the board, or by a court of record upon petition made pursuant to subsection (4) of this subsection.

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

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

(4) Any person aggrieved by an order issued by the inspector or a decision rendered by the board may petition the superior court for an injunction restraining the inspector from carrying out the order or decision, and the court may, upon such petition, issue a temporary injunction restraining the inspector pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on petitions within 20 days, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised, and shall enter such final order or decree as law and justice may require. It shall not be necessary to file a bond in any amount before obtaining a temporary injunction under this subsection.

(g) *Alternative procedure.* The inspector may, at his option, in lieu of the procedures provided for in this section, institute an appropriate court action or proceeding in the general court of justice in the name of the town for the purpose of enforcing the provisions of this chapter, pursuant to G.S. 160D-1208(e).

(h) *Liens.*

(1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(2) If the real property upon which the cost was incurred is located within the town limits, then the amount of the cost is also a lien on any other real property of the owner located within the town limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment.

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

*State law reference – G.S. 160D-1203 and G.S. 160D-1208.*

## **Section 10. Service of complaints and orders.**

(a) Complaints or orders issued by the inspector shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the 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 cannot be ascertained by the inspector 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 inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the

provisions of this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(c) Upon the issuance of a complaint and notice of hearing, a separate notice of the pending action, along with a copy of the complaint and notice of hearing, may be filed in the office of the Clerk of Superior Court in Pamlico County. The separate notice shall be in the form of a notice of lis pendens and shall contain the name of the tribunal or forum where the complaint or order is pending, the names of the parties to the action, the nature and purpose of the action, and a description of the property to be affected. After the notice of lis pendens is filed and the clerk of court has indexed the complaint and notice of hearing or an order, successors and assigns of the owners and all parties with an interest in the affected property shall be bound by the complaint and notice of hearing or order.

(d) The filed notice of lis pendens shall remain in full force and effect until cancelled, which cancellation shall not occur until all violations of this chapter have been cured with respect to the affected property and the owner has reimbursed the town for any reimbursable costs, or the owner has demolished the affected property, or has reimbursed the town for all demolition costs incurred by it.

*State law reference – G.S. 160D-1206.*

#### **Section 11. Unauthorized removal of orders or notices.**

No person, without the written consent of the inspector, shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this chapter.

#### **Section 12. Unlawful to rent or occupy property after expiration of time limits of any order**

(a) If any order issued and served in accordance with this chapter is not complied with within the time specified therein, it shall be unlawful for any person that had knowledge of the issuance of the order to occupy any portion of the building under order for any purpose. Each day is a separate offense. A placard placed on the building shall have the same effect as a written order delivered to owner or agent.

(b) When the inspector finds that a building is unfit for human habitation within the meaning of this chapter and has notified the owner to such effect and the time limit set by the inspector for the correction of defects and vacating same has expired, it shall be unlawful for any person (including, but not limited to, owner or owner's agent) to receive rentals, offer for rent, to occupy or to allow others to occupy said building/dwelling unit for any purpose.

#### **Section 13. Notice to transferee, mortgagee, etc., of notices, etc., effect of notices, etc., on same.**

It shall be unlawful for the owner of any building upon whom a notice, complaint, or order has been served to sell, transfer, mortgage, lease, or otherwise dispose thereof until the

provisions of the notice, complaint, or order have been complied with, or until such owner shall first furnish to the transferee, lessee, or mortgagee prior to such transfer, lease, or mortgage a true copy of any notice, complaint, or order issued by the inspector and at the same time give written notice to the inspector of the intent to transfer, lease, or mortgage and to whom the transfer, lease, or mortgage is proposed. A transferee, lessee, or mortgagee who had received actual or constructive notice of the existence of a notice, complaint, or order shall be bound by such notice, complaint, or order as of the date of such transfer, lease, or mortgage without service of further notice upon him.

#### **Section 14. Alternative remedies.**

The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided in this chapter or in other provisions of this code or other town ordinances or laws.

#### **Section 15. Conflict with other provisions.**

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

### **ARTICLE III. MINIMUM STANDARDS FOR EQUIPMENT AND FACILITIES**

#### **Section 16. Compliance required.**

(a) Each dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation shall comply with all of the minimum standards of fitness for human habitation as set forth in section 8, and with all requirements of this article.

(b) Unless otherwise provided in this chapter, all requirements relating to housing shall be the responsibility of the owner of the premises.

(c) A vacant residential dwelling unit that has been inspected and found to be unfit for human habitation may not be occupied until its owner receives a certificate of occupancy from the town.

#### **Section 17. General.**

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements:

(a) *Sanitary facilities—Required.* Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition and

properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.

(b) *Same—Location.* All required sanitary facilities shall be located within the dwelling unit and shall be accessible to the occupants of same. The water closet, tub or shower, and lavatory in at least one (1) bathroom shall be located in a room affording privacy to the user and such rooms shall have a minimum floor space of thirty (30) square feet.

(c) *Hot and cold water supply.* Every dwelling unit shall have connected to the kitchen sink, lavatory and tub or shower 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.

(d) *Heating facilities.*

1. Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit therein to a temperature of at least sixty-eight (68) degrees Fahrenheit at a distance three (3) feet above the floor during ordinary minimum winter conditions.

2. Where a gas or electric central heating system is not provided, each dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents, whereby heating appliances may be connected so as to furnish a minimum temperature of sixty-eight (68) degrees Fahrenheit measured to a point three (3) feet above the floor during ordinary minimum winter conditions, and in safe and proper working order.

(e) *Cooking and heating equipment.* All cooking and heating equipment and facilities shall be installed in accordance with the appropriate building, gas or electrical code and shall be maintained in a safe and good working condition.

(f) *Garbage storage or disposal facilities.* Every dwelling unit or multiple dwelling shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an incinerator unit, to be approved by the inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garage can.

## **Section 18. Light; ventilation.**

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking and eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements:

(a) *Habitable rooms—Light.* Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight (8) percent of the floor area of such room. 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 fifteen (15) percent of the total area of such room.

(b) *Same—Ventilation.* Every habitable room shall have at least one (1) window or skylight which can be safely opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least forty-five (45) percent of the minimum window area size or minimum skylight-type size, as required, or the room shall have other approved equivalent ventilation.

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

(d) *Electric lights and outlets.* Every dwelling shall be adequately and safely wired for electric lights and convenience receptacles. Every habitable room and hallway shall have provisions for adequate lighting and other necessary electrical service.

(e) *Light in public halls and stairways.* Every public hall and stairway in every multiple dwelling containing five (5) or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four (4) dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

## **Section 19. Electrical systems.**

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements:

(a) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed and connected to the source of electric power in accordance with the adopted electrical code of the town.

(b) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the total load required in accordance with the electrical code of the town.

## **Section 20. Exterior and interior of structures generally.**

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements:

(a) *Foundation.* The building foundation walls, piers or other elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.

(b) *Exterior walls.* The exterior walls shall be substantially weathertight and watertight, and shall be made impervious to the adverse effects of weather and be maintained in sound condition and good repair.

(c) *Roofs.* Roofs shall be maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.

(d) *Means of egress.* Every dwelling unit shall have two (2) safe, unobstructed means of egress with minimum ceiling height of seven (7) feet leading to a safe and open space at ground level.

(e) *Stairs.* Every inside and outside stair 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) *Porches and appurtenances.* Every outside 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.

(g) *Windows and doors generally.* 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.

(h) *Windows to be glazed.* Window panes or an approved substitute shall be maintained without cracks or holes which allow passage of air.

(i) *Window sash.* Window sash shall be properly fitted and weathertight within the window frame.

(j) *Hardware.* Every exterior door shall be provided with proper hardware and maintained in good condition.

(k) *Door frames.* Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building.

(l) *Screens.* Every door opening directly from a dwelling unit to outdoor space shall have screens and a self-closing device; and every window or other device with opening to



outdoor space, used or intended to be used for ventilation, shall likewise have screens, tightfitting, free of holes and not nailed to the window frame or sash. Dwellings containing central heating furnaces and adequate cooling equipment for mechanically ventilating the building year around are not required to have screens on door or window openings.

(m) *Accessory structures.* Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition.

(n) *Interior floors, walls, partitions, ceilings.* Every floor, wall, partition and interior 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.

(o) *Structural supports.* Every structural element of the dwelling shall be structurally sound and show no evidence of deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.

(p) *Protective railings.* Protective railings shall be required on any unenclosed structure over thirty (30) inches above adjacent finish grade or on any steps exceeding four (4) risers. Interior stairs and stairwells more than four (4) risers high shall have handrails located in accordance with requirements of the building code. Handrails or protective railings shall be capable of bearing normally imposed loads and shall be maintained in good condition.

## **Section 21. Space and use.**

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements:

(a) *Space in dwelling unit.* Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor area per each additional occupant.

(b) *Space in sleeping rooms.* In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof.

(c) *Minimum ceiling height.* At least one-half of the floor area of every habitable room, foyer, hall or corridor shall have a ceiling height of at least seven (7) feet; and the floor area of that part of any room where the ceiling height is less than seven (7) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy.

(d) *Occupancy of dwelling unit below grade.* No basement or cellar space shall be used as a habitable room or dwelling unit unless meeting all specifications for habitable rooms.

## **Section 22. Sanitation.**

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements:

(a) *Sanitation.* Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) *Cleanliness.* Every owner or occupant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies or controls or which is provided for his particular use.

(c) *Garbage disposal.* Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide for rodents and all rubbish in a clean and sanitary manner by placing it in the garbage disposal facilities or garbage or rubbish storage containers.

(d) *Extermination.* Every occupant of a single dwelling and every owner of a building containing two (2) or more dwelling units shall be responsible for the extermination of any insects, rodents or other pests within the building or premises.

(e) *Use and operation of supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

## **Section 23. Application of residential building code.**

The North Carolina Uniform Residential Building Code, current edition, shall govern all repairs, alterations and/or additions to any existing structure where not specified in sections 17 – 21.