

Chapter 5 - BUILDINGS

Sections:

Article I. - In General

5-1. - Fire limits—Fire district.

It shall be unlawful for any person to erect any wooden building, wooden shed, or building of any kind with a wooden roof, or repair any wooden building within the fire limits (fire district) of the town, which is set out by the following boundary, to-wit:

Beginning at a point in an alley at the northeast intersection of such alley and Eleventh Street between D and E Streets; thence running in a southerly direction with the east margin of Eleventh Street to a point in the east margin of Eleventh Street twenty-five feet south of D Street; thence in an easterly direction parallel with D Street fifteen feet more or less to a point; thence in a southerly direction following the center of the Southern Railway spur line to a point where the Southern Railway tracts intersect with the western margin of North Wilkesboro Boulevard; thence in a southerly direction with the western margin of North Wilkesboro Boulevard to the southwest intersection of North Wilkesboro Boulevard and Cherry Street; thence in an easterly direction with the southern margin of Cherry Street to the southeast intersection of Cherry Street and Sixth Street; thence in a northerly direction with the eastern margin of Sixth Street to the center line of the Southern Railway tracks; thence in an easterly direction with the Southern Railway tracks to the east margin of Fifth Street; thence in a northerly direction with the east margin of Fifth Street to the northeast intersection of Fifth Street and B Street; thence in a westerly direction with the northern margin of B Street to the northeastern intersection of Sixth and B Streets; thence in a northerly direction with the eastern margin of Sixth Street to the northeast intersection of an alley and Sixth Street between B and C Streets; thence in a westerly direction with the northern margin of the alley to the eastern margin of Water Alley; thence in a southerly direction with the eastern margin of Water Alley to the northern margin of B Street; thence in a westerly direction with the northern margin of B Street to a property line located one hundred twenty-five feet east of the northeastern intersection of Eighth Street and B Street; thence in a northerly direction with such property line one hundred ten feet to the southern margin of Kensington Drive; thence in a westerly direction with the southern margin of Kensington Drive to the southeast intersection of Kensington Drive and Eighth Street; thence in a northerly direction with the eastern margin of Eighth Street to the northeast intersection of Eighth and D Streets; thence in an easterly direction with the northern margin of D Street one hundred seventy-five feet to a point in a property line; thence in a northerly direction with such property line one hundred sixty feet to the northern margin of an alley between D and E Streets, thence in a westerly direction with the northern margin of said alley to Eleventh Street being the point of beginning.

5-2. - Permits—General provisions.

- A. 1. No person shall commence or proceed with the construction, reconstruction, alteration, repair, removal or demolition of any building or other structure, or any part thereof, without a written permit therefor from the building inspector; provided, that no building permit shall be required for work the total cost of which does not exceed two thousand five hundred dollars and which does not involve any change of the structural parts or the stairways, elevators, fire escapes or other means of egress from the building or the structure in question.
2. In all cases of removal or demolition of a building or structure, a good and sufficient bond in the sum of five hundred dollars shall be posted by the property owner or by his or her contractor at the time of application for a permit, to insure complete removal or demolition, including all rubble and debris. Failure on the part of the property owner or his or her contractor to completely demolish, remove and clear the premises, after thirty days' notice by the building inspector, shall be cause for forfeiture of the bond.

- B. No person shall commence or proceed with the installation, extension or general repair of any plumbing system without a written permit therefor from the plumbing inspector; provided, that no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing if repairs or replacements do not disrupt the original water supply or the waste or ventilating systems.
- C. No person shall commence or proceed with the installation, extension, alteration or general repair of any heating or cooling equipment system without a written permit from the heating-air conditioning inspector; provided, that no permit shall be required for minor repairs or minor burner services or filter replacements of warm air furnaces or cooling system.
- D. No person shall commence or proceed with the installation, extension, alteration or general repair of any electrical wiring, device, appliance or equipment without a written permit therefor from the electrical inspector; provided, that no permit shall be required for minor repair work, such as the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed; provided, further, that no permit shall be required for the installation, alteration or repair of the electrical wiring, devices, appliances and equipment installed by or for an electrical public utility corporation for the use of a corporation in the generation, transmission, distribution or metering of electrical energy, or for the use of a corporation in the operation of signals or the transmission of intelligence.

5-3. - Application for permits.

- A. Written application shall be made for all permits required by this chapter, and shall be made on forms provided by the inspection department. An application shall be made by the owner of the building or structure affected or by his or her authorized agent or representative, and in addition to other information as may be required by the appropriate inspector to enable him or her to determine whether the permit applied for should be issued, shall show the following:
 - 1. Name, residence and business address of owner;
 - 2. Name, residence and business address of authorized representative or agent, if any; and
 - 3. Name and address of the contractor, if any, together with evidence that he or she has obtained a certificate from the appropriate state licensing board for contractors, if it be required for the work involved in the permit for which application is made.
- B. Detailed plans and specifications shall accompany each application for permit when the estimated total cost of the building or structure is in excess of twenty thousand dollars, and for any other building or structure where plans and specifications are deemed necessary by the appropriate inspector in order for him or her to determine whether the proposed work complies with the appropriate regulatory codes. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this chapter and the appropriate regulatory codes. Where plans and specifications are required, a copy thereof shall be kept at the work until all authorized operations have been completed and approved by the appropriate inspector.

5-4. - Limitations regarding issuance of permit.

- A.
 - 1. No building permit shall be issued for any building or structure the estimated total cost of which is more than thirty thousand dollars unless the work is to be performed by a licensed general contractor.
 - 2. No building permit shall be issued for any building or structure, other than a one or two family dwelling, the estimated total cost of which is more than ninety thousand dollars or more than two thousand five hundred square feet, unless the plans bear the North Carolina seal of a registered architect or a registered engineer.

3. Where any provision of the general statutes of North Carolina, this Code or any other ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for work shall be issued unless it is to be performed by a licensed specialty contractor.
 4. Where detailed plans and specifications are required under this chapter, no building permit shall be issued unless the plans and specifications have been provided.
 5. No permit for alteration, repair or construction of any building or structure shall be issued unless the plans and specifications show that the building or structure, and its proposed use, will be in compliance with applicable provisions of the zoning ordinance.
- B. The town of North Wilkesboro's Building Code is hereby amended to require notice to be given to all persons constructing a new building that they shall be advised by the building inspector at the time they obtain a building permit that they are required to provide on the site of the building a temporary sanitary toilet for the use of the persons engaged to the construction of the building and any person, firm or corporation failing to make arrangements for a sanitary toilet during the construction shall be in violation of the Building Code. Any person, firm or corporation in violation of this Code shall pay a penalty of ten dollars and the cost for each day that he or she fails to provide a facility for the use of the employees.
- C. The building inspector is given the authority to enforce this chapter and shall so advise the person, firm or corporation making an application for a permit of this requirement at the time of the issuance of the building permit.

5-5. - Issuance and revocation of permit.

- A. When proper application for a permit has been made, and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this chapter and the appropriate regulatory codes, he or she shall issue a permit upon payment of the proper fee or fees as hereinafter provided in Section 5-7.
- B. The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for revocation. Permits shall be revoked for any material departure from the approved application, plans or specifications; for refusal or failure to comply with proper orders of the inspector; for refusal or failure to comply with requirements of this chapter and the appropriate regulatory codes; or for false statements or misrepresentations made in securing the permit.

5-6. - Permits and period of validity.

All permits issued under this chapter shall expire by limitation six months after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of twelve months, the permit therefor shall immediately expire. No work authorized by any permit which has expired shall thereafter be performed until a new permit therefor has been secured.

5-7. - Fees regarding permits.

Fees associated with the provisions of this chapter shall be in accordance with the most recently adopted fee schedule of the town of North Wilkesboro.

5-8. - Changes in work after issuance of permit.

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter or of any regulatory code adopted therein, shall not be made until specific written approval of the changes or deviations has been obtained from the appropriate inspector.

5-9. **Reserved. Privilege licenses repealed in 2015.**

~~Contractors—Requirements regarding inspection department.~~

~~Every person carrying on the business of building contractor, plumbing contractor, heating-air conditioning contractor or electrical contractor within the town shall register and obtain a privilege license at the office of town clerk, giving name, place of business and type of work and business in which he or she is engaged.~~

5-10. - Registered contractors required to give bond or proof of liability insurance.

Every person required to register at the office of the town clerk under the preceding section shall also give a good and sufficient bond in the sum of one thousand dollars or provide to the building inspector, a liability insurance policy conditioned upon faithful performance of duty in doing any work which he or she may have contracted to do, and to indemnify the town against loss in any manner whatsoever for any unskillful or negligent work or conduct in the performance of the duties imposed by the provisions of this chapter or any regulatory code therein adopted, or any damage to any utility lines, streets or sidewalks in the town, or for the use of defective or improper material in the work, or for any damage which may accrue to any person by reason of any default of the contract, or for the payment of any inspection or other fees required by this chapter.

Article II. - Inspection Department

5-11. - Composition of department.

The inspection department shall consist of a building inspector, a plumbing inspector, a heating-air conditioning inspector, an electrical inspector and other inspectors or deputy or assistant inspectors as may be authorized by the town manager. The town manager may, in his discretion, designate one person to fill any one or more or all of these positions. If more than one person is employed as an inspector, the town manager may designate a member of the department as the department head.

5-12. - Conflicts of interest.

No officer or employee of the inspection department shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building or any part thereof, or in the making of plans or specifications thereof unless he or she is the owner of the building. No officer or employee of the inspection department shall engage in any work which is inconsistent with his or her duties or with the interests of the town.

5-13. - Department and inspectors—General powers and duties.

- A. Except as may be provided otherwise in this chapter, it shall be the duty of the inspection department to enforce all of the provisions of this chapter and of the regulatory codes adopted therein, and to make all inspections necessary to determine whether or not the provisions of this chapter and the codes are being met, and for those purposes the department and the inspectors thereof shall have all powers and authority provided by state law, including the North Carolina State Building Code, the Town Charter, this Code and other ordinances.
- B. The North Carolina State Building Code General Construction and the North Carolina Uniform Residential Building Code shall be enforced by the building inspector. The North Carolina Plumbing Code shall be enforced by the plumbing inspector. The North Carolina Heating Code shall be enforced by the heating-air conditioning inspector. The North Carolina State Electrical Code shall be enforced by the electrical inspector.

5-14. - Right of entry—Stop orders.

- A. Inspectors shall have the right of entry on any premises within the jurisdiction of the regulatory codes adopted in this chapter, at reasonable hours, for the purpose of inspection or enforcement of the requirements of this chapter and the regulatory codes, upon presentation of proper credentials.
- B. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner, or in violation of any provision of this chapter or any other town ordinance, or in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit or permits issued therefor, or in a manner as to endanger life or property, the appropriate inspector may order work to be immediately stopped. The order shall be in writing to the owner of the property or to his or her agent, or to the person doing the work, and shall state the reasons therefor and the conditions under which the work may be resumed.

5-15. - Records and reports.

The inspection department, and each inspector, shall keep complete, permanent and accurate records in convenient form of all applications received, permits issued, inspections and re-inspections made, and all other work and activities of the inspections department. Periodic reports shall be submitted to the mayor and board of commissioners and to other agencies, as required.

5-16. - Inspection procedure—Certificates of occupancy.

- A. The inspection department shall inspect all buildings and structures and work therein for which a permit of any kind has been issued, as often as necessary in order to determine whether the work complies with this chapter and the appropriate codes.
- B. When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, that no approval shall be based upon reports of organizations unless reports are in writing and certified by a responsible officer of an organization.
- C. All holders of permits, or their agents, shall notify the inspection department and the appropriate inspector at each of the following stages of construction so that approval may be given before work is continued:
 - 1. Foundation Inspection. To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles and similar types of foundations shall be inspected as installed.
 - 2. Framing Inspection. To be made after all structural framing is in place and all roughing-in of plumbing and electrical and heating has been installed, after all fire blocking, chimneys, bracing and vents are installed but before any of the structure is enclosed or covered. Poured in place concrete structural elements shall be inspected before each pour of any structural member.
 - 3. Fireproofing Inspection. To be made after all areas required to be protected by fireproofing are lathed, but before the plastering or other fireproofing is applied.
 - 4. Final Inspection. To be made after building or structure has all doors hung, fixtures set, and ready for occupancy, but before the building is occupied.
- D. Requests for inspections may be made to the department of planning and inspections or to the appropriate inspector. The inspections department shall make inspections as soon as practicable after request is made therefor, provided the work is ready for inspection at the time the request is made.
- E. Re-inspections may be made at the convenience of the inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his or her agent. Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this chapter.

- F. Where the applicant for a permit proposes to erect any building or structure on the line of any street or other public place, he or she shall secure a survey of the line of the street or other public place, adjacent to the property upon which building or structure is to be erected, before proceeding with construction of the building or structure. It shall be the duty of the building inspector to see that the building does not encroach upon the street or other public place.
- G. No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the inspection department has issued a certificate of occupancy therefor. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building. Application for a certificate of occupancy may be made by the building owner or his or her agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary to determine compliance with this chapter, the appropriate regulatory codes and the zoning ordinance for the occupancy intended. The inspection department shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this chapter, the regulatory codes and the zoning ordinance for the occupancy intended.

5-17. - Oversight, neglect by inspector.

No oversight or dereliction of duty on the part of any inspector or other official or employee of the inspection department shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code therein adopted.

Article III. - Regulatory Codes

5-18. - Applicability of chapter and regulatory codes herein adopted.

- A. The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:
 - 1. The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every building or structure or any appurtenances connected or attached to a building or structure;
 - 2. The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems and all fixtures and appurtenances thereof;
 - 3. The installation, erection, alteration, repair, use and maintenance of mechanical systems and appurtenances thereof; and
 - 4. The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof.
- B. The adoption of this chapter and the codes herein adopted by reference shall constitute a resolution within the meaning of G.S. Section 143-138(b), as to making the regulatory codes herein adopted applicable to dwellings and outbuildings used in connection therewith and to apartment buildings used exclusively as the residence of not more than two families.

5-19. - Building Code adopted.

The **North Carolina Building Code: Building Code, ~~2006 edition~~ and Existing Building Code 2018**, and all relevant appendices and all future appendices and amendments, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Building Code of the town, to the extent that the code is applicable for safe and stable

design, methods of construction, minimum standards and use of materials in building of structures hereafter erected, enlarged, altered, repaired or otherwise constructed or reconstructed.

5-20. - Plumbing Code adopted.

The Plumbing Code, ~~2006~~ 2018 edition, and all relevant appendices, (North Carolina State Building Code, Plumbing Code, ~~2002~~ 2018 edition), as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Plumbing Code for the town.

5-21. - Energy Code adopted.

The Energy Code, ~~2006~~ 2018 edition, and all relevant appendices, (North Carolina State Building Code, Energy Code, ~~2006~~ 2018 edition) as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Energy Code for the town.

5-22. - Electrical Code adopted.

The Electrical Code, ~~2005~~ 2017 edition, and all relevant appendices, (~~North Carolina State Building Code, Electrical Code, 2005-NFPA 70, National Electrical Code, 2017~~ edition), as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Electrical Code for the town.

5-23. - Residential Code adopted.

The ~~North Carolina State Building Code: Residential Code, 2002~~ 2018 edition, and all relevant appendices, as adopted and as published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Residential Code in the town.

5-24. - Mechanical Code adopted.

The Mechanical Code, ~~2006~~ 2018 edition, and all relevant appendices, as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Mechanical Code for the town.

5-25. - Accessibility Code adopted.

The Accessibility Code, ~~2002~~ 2018 edition, ~~North Carolina State Building Code; (ex. Chapter 11)~~ and all relevant appendices, as adopted and published by the North Carolina Building Code Council and as amended ~~and the 2009 ANSI ICC A117.1 Standard~~, is hereby adopted by reference as fully as though set forth herein as the Accessibility Code for the town.

5-26. - Fuel Gas Code adopted.

The Fuel Gas Code, ~~2006~~ 2018 edition, and all relevant appendices, as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Fuel Gas Code for the town.

5-27. - Fire Prevention Code adopted.

The Fire Prevention Code, ~~2006-2018~~ edition, and all relevant appendices, as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Fire Prevention Code for the town.

5-28. - Regulations for manufactured homes adopted.

The state of North Carolina Regulations for Manufactured Homes, 2004 edition, and all relevant appendices, as adopted and published by the North Carolina Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the regulations for manufactured homes for the town.

5-29. - Administration and Enforcement Requirements Code adopted.

The Administration and Enforcement Requirements Code, ~~2002~~ 2018 edition, and all relevant appendices, as adopted published by the North Carolina Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Administration and Enforcement Requirements Code for the town.

5-30. - Amendments to codes herein adopted.

Amendments to the regulatory codes adopted by reference herein, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time the amendments are adopted by the board of commissioners and filed with the building inspector as provided in Section 5-32.

5-31. - Required compliance with codes.

- A. All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished or moved shall conform to the requirements, minimum standards and other provisions of either the North Carolina State Building Code: **Building Code**, or the North Carolina ~~Uniform Residential State~~ Building Code: **Residential Code** , whichever is applicable, or of both, if both are applicable.
- B. Every building or structure intended for human habitation, occupancy or use shall have plumbing, plumbing systems or plumbing fixtures installed, constructed, altered, extended, repaired or reconstructed in accordance with the minimum standards, requirements and other provisions of the North Carolina Plumbing Code.
- C. All mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel burning equipment and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the North Carolina Mechanical Code.
- D. All electrical wiring, installations and appurtenances shall be erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the North Carolina Electrical Code.

5-32. - Copies of codes to be on file in department of planning and inspections.

An official copy of each regulatory code adopted herein, and official copies of all amendments thereto, shall be kept on file in the office of planning and inspections. The copies shall be the official copies of the codes and the amendments.

Article IV. - Unsafe Buildings

5-33. - Construction of chapter.

This chapter is in addition to, and not in substitution for, any other provision of this Code or other ordinance affecting the same subject matter.

5-34. - Building inspector—Order of condemnation.

- A. Any building or structure or part thereof, partially destroyed or otherwise, which is found by the building inspector to be in a dilapidated state of disrepair or other substandard condition as to be

dangerous to life, health or other property, or to constitute a fire or safety hazard or a public nuisance shall be declared by the building inspector to be unsafe.

- B. The declaration by the building inspector shall constitute an order of condemnation for the purposes of this chapter.
- C. Unsafe condition may be caused by defective construction, overloaded structural parts, decay, susceptibility to fire or any other hazardous conditions or circumstances.
- D. The building inspector shall have authority, and it shall be his or her duty, to declare all those buildings or structures unsafe and to take appropriate action to have the conditions corrected or removed.

5-35. - Duty of owner to comply with order—Procedure—Recourse.

Whenever any building or structure has been condemned by the building inspector, and the existence of the building or structure in a dilapidated state of disrepair or other substandard condition is found and determined by the building inspector or, upon appeal from or report by the building inspector as hereafter provided, by the mayor and board of commissioners to be dangerous to life, health or other property, or is in a condition as to constitute a fire or safety hazard or a public nuisance, the owner of the building or structure shall be required to demolish and remove the same and remedy conditions under the regulations and procedures herein provided; and in the event the owner fails or refuses so to do within the time directed by the building inspector or by the mayor and board of commissioners, as hereinafter provided, the mayor and board of commissioners, may, in their judgment, cause the same to be demolished and removed or other steps taken as they may find to be necessary to suppress and abate the nuisance and remove the fire or safety hazard and the danger to life, health or other property found to exist, and specially assess the cost and expense of doing work against the lot or parcel of land on which the building or structure is located.

5-36. - Notice to owner—Hearing.

Before any building or structure may be ordered to be demolished and removed as provided in Section 5-35, the building inspector shall notify the owner thereof, in writing, by certified or registered mail to the last known address of the owner, or by personal service of notice by the building inspector or his or her assistant or by posting notice as hereinafter provided, that the building or structure is in a condition as appears to constitute a fire or safety hazard or dangerous to life, health or other property, or to be a public nuisance, and that a hearing will be held before the building inspector at a designated place at a time not less than ten days after the date of the written notice, at which time and place the owner shall be entitled to be heard in person or by counsel upon all legal or factual questions relating to the matter, and shall be entitled to offer that as he or she may desire which is relevant or material to the questions sought to be determined or the remedies sought to be effected. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice herein referred to shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the date fixed for the hearing and a notice of the hearing is published one time in a newspaper having general circulation in the town at least one week prior to the date fixed for the hearing. The notice shall state the address or location of the building or structure and the time, place and purpose of the hearing.

5-37. - Order after hearing—Remedy or demolish building.

If, upon hearing, the building inspector shall find that the building or structure in question is in a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard or to be dangerous to life, health or other property, or is a public nuisance, he or she shall make an order in writing, directed to the owner of the building or structure, requiring the owner to remedy the conditions so found to exist by demolishing and removing the building or structure or taking other steps as may be necessary to abate the nuisance and remove the hazards, within a period, not less than sixty days, as the building inspector prescribed.

5-38. - Right to appeal—Procedure and effect.

The owner of any building or structure ordered by the building inspector to be demolished and removed, or who is directed by the building inspector to take any other steps to abate a nuisance or remove hazards found by the building inspector to exist, shall have the right of appeal from orders to the mayor and board of commissioners; provided, that the owner gives notice of appeal to the building inspector at the time of the hearing at which the order is made, or within ten days after the order is made, files with the building inspector a written notice of appeal. Notice of appeal shall state the grounds therefor. Unless an appeal is taken within the time and the manner herein prescribed, the action of the building inspector shall be deemed final, subject only to action as the mayor and board of commissioners may take as herein elsewhere provided. Where an appeal has been properly taken and notice thereof given in accordance with the provisions of this section, it shall be the duty of the building inspector to report the same to the town clerk, who shall cause the matter to be placed on the agenda for action by the mayor and board of commissioners at their next regular meeting. The mayor and board of commissioners shall have the right to continue the hearing of the appeal from time to time, in their discretion.

5-39. - Building inspector report upon noncompliance of owner—Action.

In the event the owner does not appeal from the final order or direction of the building inspector requiring that the building or structure be demolished and removed or the taking of other steps as may be required to abate the nuisance and remove the hazards, and fails or refuses to comply with the order and direction, it shall be the duty of the building inspector to file a written report thereof with the town clerk, who shall cause the report to be placed on the agenda for action by the mayor and board of commissioners at their next ensuing regular meeting or to some subsequent meeting to which they may continue the same. The building inspector shall mail a copy of the report by certified or registered mail to the owner at his or her last known address, or have a copy thereof delivered to the owner. This report shall specify the date of the meeting of the board of commissioners for which the matter will be docketed for action.

5-40. - Order of governing body—Assessment of costs.

In all cases referred to in this chapter which reach the mayor and board of commissioners for action, either upon appeal of the owner from the ruling of the building inspector or upon report of the building inspector that the owner fails or refuses to comply with his or her order or direction, they shall hear the matter, and if they find and determine that the building or structure in question is in a dilapidated or substandard state of disrepair as to constitute a fire or safety hazard, or to be dangerous to life, health or other property, or is a public nuisance, and that the owner of the building or structure has failed or refused to abate the nuisance and has failed or refused to have the building or structure demolished and removed or has failed or refuse to take other steps as may be necessary to abate the nuisance and remove the hazards found to exist, they may cause the demolition and removal of the building or structure to be done, or effect other remedies as may be necessary to abate the nuisance and remove the hazards, and specially assess the cost of the work against the lot or parcel of land on which the building or structure was situated; and the assessment shall constitute a specific lien upon the lot or parcel of land, which may be enforced by an action instituted in the name of the town in the nature of an action to foreclose a mortgage as provided by G.S. Sections 105-374 or 105-375 in the case of ad valorem taxes and local improvement assessments.

5-41. - When governing body to give notice of hearing.

In cases in which the building inspector has been unable to give to the owner actual notice of hearing in the manner as provided in this chapter, and has given notice by posting and publishing the same as authorized in Section 5-36, and the owner has failed or refused to comply with the order or direction of the building inspector to demolish and remove the building or structure, or take other remedial action as will remove the hazards, and the case is referred to the mayor and board of commissioners for action, they shall, before taking action, cause to be posted on the outside of the building or structure in

question at least ten days prior to the date fixed for the hearing, and published one time in a newspaper having general circulation in the town at least one week prior to the date fixed for the hearing, a written notice stating the address or location of the building or structure involved and the time, place and purpose of the hearing, and other information as they may deem advisable.

5-42. - Presumption of danger arising from order or action of governing body.

In all cases in which the mayor and board of commissioners under authority of this chapter, cause the demolition and removal of any building or structure to be carried out, or direct other remedial steps to be taken as may be necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire and safety hazard and danger to life, health or other property, created and maintained by the continued presence of the building or structure in a condition as is found to exist, constitute a clear and present danger amounting to a situation of emergency involving the public health, safety and general welfare, which requires entry upon private property for the summary abatement and removal of danger, in the public interest.

5-43. - Violations and penalties.

It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the building inspector or the mayor and board of commissioners made by virtue and in pursuance of this chapter, and any person violating this chapter shall, upon conviction, be punished as provided by G.S. Section 14-4 for the violation of municipal ordinances, and every day a person shall willfully fail or refuse to comply with any final order or direction of the building inspector or mayor and board of commissioners made by virtue and in pursuance of this chapter shall constitute a separate and distinct offense.

Article V. - ~~North Carolina Model Housing Code~~ (Minimum Housing Standards)

5-44. - Findings—Purpose—Authority.

- A. Pursuant to G.S. Section ~~160A-444~~ 160D-1201, it is hereby found and declared that there exist in the town 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 the dwellings unsafe and unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.
- B. In order to protect the health, safety and welfare of the residents of the town, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. Section ~~160A-444~~ 160D-1205.
- C. In addition, it is hereby found and declared, under the authority of G.S. Section 160A-174 (verified), that there exist in the town dwellings which, although not meeting the classification as unfit for human habitation, fail to fully comply with all the minimum standards for housing fitness as established herein and therefore have present one or more conditions which are inimical to the public health, safety and general welfare. These conditions, if not corrected, can lead to deterioration and dilapidation of dwellings, which render them unfit for human habitation.

5-45. - Scope.

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

- B. The provisions of this chapter shall apply to all existing housing and to all housing hereafter constructed within the corporate limits of the town (~~new statue allows us to enforce in the ETJ-160D-1203 POLICY QUESTION~~). Portable, mobile or demountable buildings or structures, including trailers, manufactured homes and mobile homes when used or intended for use for housing within the jurisdiction, shall be subject to the applicable provisions of this section. This chapter establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this chapter.
- C. The provisions of this chapter shall also apply to abandoned structures which are found by the board of commissioners to be 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 conditions.

5-46. - Definitions.

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

"Abandoned structure" ~~means~~ any structure, whether designed and intended for residential or other uses, which has been vacant or not in active use, regardless of purpose or reason, for the past two-year period and which is determined by the housing inspector to be unfit for human habitation or occupancy based upon the standards as set forth in this chapter.

"Basement" ~~means~~ a portion of a building which is located partly ~~or completely~~ underground. ~~having access to light and air from windows located above the level of the adjoining ground.~~

"Cellar" ~~means~~ a portion of a building located partly or wholly underground having inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

"Deteriorated dwelling" ~~means~~ 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, at a cost not in excess of fifty percent of its value, as determined by finding of the housing inspector.

"Dilapidated dwelling" ~~means~~ a dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of fifty percent of its value, as determined by finding of the housing 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 ~~appurtenances belonging thereto or usually enjoyed therewith. accessory buildings and structures and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose.~~ ~~appurtenances belonging thereto or usually enjoyed therewith.~~

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

"Extermination" ~~means~~ the control and elimination of insects, rodents or other pests by 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 housing inspector.

"Garbage" ~~means~~ the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, ~~or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies, insects or animals.~~

"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 toilet~~ compartments, laundries, heater rooms, foyers or ~~communicating corridors~~, closets and storage spaces.

"Housing inspector" ~~means~~—the person appointed by the town manager to carry out the administration and enforcement of this chapter.

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

"Manufactured home (mobile home)" ~~means~~ a structure as defined in G.S. Section 143-145(7).

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

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

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

"Owner" ~~means~~ 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~~ any 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". – any housing inspector, code enforcement officer or any officer who is authorized in exercising the powers prescribed by the ordinances and by this Chapter. Appointment of this position is by the Town Manager.~~

"Rooming house" ~~means~~ 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 and wife, son or daughter, mother or father or sister or brother of, the owner or operator.

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

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

~~"State building code" the North Carolina State Building Code or any superseding regulation.~~

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

B. Whenever the words dwelling, dwelling unit, rooming house, rooming unit or premises are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

5-47. - Office of housing inspector of minimum housing created—Powers and duties.

A. For the purposes of administering and enforcing the provisions of this chapter, the office of the minimum housing inspector is hereby created ~~An annual estimate must be completed and incorporated into the Town's budgeting process of the fiscal year's expenses or costs to provide the equipment, personnel, and supplies necessary to execute this chapter. The Town is authorized to make appropriations from its revenues necessary for this purpose and may accept grants or donations to assist it.~~

A. Powers and duties:

A.—~~The housing inspector is hereby designated as the officer to enforce this chapter and exercise the powers prescribed in this chapter. It shall be the duty and powers of the housing inspector to:~~

B.—~~The housing inspector shall be appointed by the town manager, and shall have powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, without limiting the generality of the foregoing, in addition to others herein granted, the following powers:~~

1. ~~Investigations.~~ To investigate the dwelling and building conditions in the town in order to determine which dwellings therein are unfit for human habitation and dangerous, being guided in examination of dwellings and buildings by the requirements set forth in this chapter;
2. Take appropriate action in coordination with the other Town departments, agencies, public and private, as necessary to ensure rehabilitation of housing which is deteriorated;
3. Keep adequate records of all cases, results of inspections made per this chapter's authority and inventory of all properties that do not meet the minimum standards as stated in this chapter; and
4. Perform other duties as this chapter prescribes;
5. ~~Oaths, Witnesses and the Like.~~ To administer oaths and affirmations and to examine witnesses and receive evidence.
6. ~~Right of Entry.~~ To enter upon and within premises and dwellings for the purpose of making examinations and investigations; provided, that entries shall be made in a manner as to cause the least possible inconvenience to the persons in possession.
7. ~~Warrants, Citations and the Like.~~ To swear criminal warrants, administrative inspection warrants, issue civil citations and to take other actions as may be necessary to carry out the enforcement procedures of this chapter.
8. ~~Delegation of Functions and the Like.~~ To delegate any of his or her functions and powers under this chapter to officers and agents ~~as he or she may designate.~~

5-48. - Inspections.

For the purpose of carrying out the intent of this chapter, the housing inspector, upon proper identification ~~and/or credentials~~, is hereby authorized to enter, examine and survey at all reasonable ~~hours times~~ all dwellings, dwelling units, rooming houses, rooming units on premises, including abandoned structures. The owners or occupants of every dwelling, dwelling unit, rooming unit or rooming house, or the person in charge thereof, shall give the housing inspector free access to the dwelling, dwelling unit, rooming house or rooming unit and its premises at all reasonable ~~hours times~~ for the purposes of inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of the dwelling or dwelling unit, and its premises, at all reasonable ~~hours times~~ for the purpose of making repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

5-49. - Preliminary investigations—Notices—Hearings.

Whenever a petition is filed with the housing inspector by a public authority or by at least five residents of the town charging that any dwelling is unfit for human habitation or whenever it appears to the housing inspector (on his or her own motion) that any dwelling is unfit for human habitation, the housing inspector shall, if his or her preliminary investigation discloses a basis for those charges, issue and cause to be served upon the owner and parties in interest in the dwellings a complaint stating the charges in that respect and containing a notice that ~~an administrative hearing~~ will be held before the housing inspector (or his or her designated agent) at a place within the town therein fixed not less than ten days nor more than thirty days after the serving of the complaint; that the owner and parties in interest shall be given 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; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the housing inspector. ~~Upon the issuance of a complaint and notice of hearing pursuant to this section, the inspector may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing attached thereto, in the office of the clerk of superior court of Wilkes County, to be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. The inspector shall cause a copy of the notice of lis pendens to be served upon the owners and parties in interest in the dwelling at the time of filing in accordance with G.S. Section 160A-445-G.S. Section 1.120.2, as applicable.~~ Upon compliance with the

requirements of any order issued based upon a complaint and hearing, the inspector shall direct the clerk of superior court to cancel the notice of lis pendens.

5-50. - Dwelling unfit for human habitation.

The housing inspector shall determine that a dwelling is unfit for human habitation if he or she finds that any one of the following conditions exist in a dwelling:

- A. Interior walls or vertical studs which seriously list, lean or buckle to an extent as to render the dwelling unsafe;
- B. Supporting member or members which show thirty-three percent or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which show fifty 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. Damage by fire, wind or other causes as to render the dwelling 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 the 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 definite health or safety hazard; and
- J. Lack of connection to a potable water supply and/or to the public sewer or other approved sewage disposal system, the lack of either one of which renders a dwelling unfit for human habitation. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been cut off because of nonpayment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

5-51. - Structural standards.

In addition to the ten conditions stated in Section 5-50, any one of which renders a dwelling unfit for human habitation, the housing inspector shall determine that a dwelling is unfit for human habitation if he or she finds that a dwelling fails to fully comply with seven or more of the following enumerated standards of dwelling fitness:

- A. Structural Integrity. Walls, partitions, supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.
- B. Supports. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- C. Foundations. Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- D. Steps. Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in a condition that they will not fail or collapse.
- E. Egress. Adequate facilities for egress in case of fire or panic shall be provided.
- F. Interior Materials. Interior walls and ceilings of all rooms, closets and hallways shall be furnished of suitable materials which will, by use of reasonable household methods, promote sanitation

and cleanliness, and shall be maintained in a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

- G. Weatherization. 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 weather and watertight.
- H. Chimneys. There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in a condition or location as to constitute a fire hazard.
- I. Floors. There shall be no use of the ground for floors, or wood floors on the ground.

5-52. - Plumbing standards.

- A. Facilities. Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and 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. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been cut off because of non-payment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.
- B. Maintenance. All plumbing fixtures shall meet the standards of the ~~town~~ Plumbing Code and shall be maintained in a state of good repair and in good working order.
- C. Accessible. All required plumbing fixtures shall be located within the dwelling and be accessible to the occupants of the same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

5-53. - Heating standards.

- A. Every dwelling shall have facilities for providing heat in accordance with either subsection B or C of this section. The facilities shall be maintained in a state of good repair and good working order.
- B. Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, ~~sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, bathrooms and water closet compartments in every dwelling to which it is connected with~~ to a minimum temperature of ~~seventy degrees~~ sixty-eight degrees Fahrenheit measured at a point three feet above the floor ~~with an outside temperature of 20 degrees Fahrenheit during average winter conditions.~~
- C. Where a central or electric heating system is not provided, each dwelling shall be provided with sufficient electrical receptacles, fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms, ~~bathrooms and water closet compartments~~ with a minimum temperature of ~~seventy degrees~~ sixty-eight degrees Fahrenheit measured three feet above the floor ~~during average winter conditions.~~
- D. ~~If a dwelling unit contains a heating system or heating appliances that meet the requirements of subsection (b) or (c) of this section, the owner of the dwelling unit shall not be required to install a new heating system or heating appliances, but the owner shall be required to maintain the existing heating system or heating appliances in a good and safe working condition. Otherwise, the owner of the dwelling unit shall install a heating system or heating appliances that meet the requirements of subsection (b) or (c) of this section and shall maintain the heating system or heating appliances in a good and safe working condition.~~

5-54. - Electrical standards.

- A. Wiring. Every dwelling shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall type electrical convenience receptacles, connected in a manner as determined by the ~~town~~ Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light

fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each habitable room shall contain at least three floor or wall-type electric convenience receptacles.

- B. Hall Lights. Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural light is not sufficient.
- C. Maintenance. All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the ~~town~~-Electric Code.

5-55. - Ventilation standards.

- A. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent of the floor area of a room. Whenever walls or other portions of structures face a window of any room and light obstructions are located less than five feet from the window and extend to a level above that of the ceiling of the room, 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 a room, the total window area of skylight shall equal at least fifteen percent of the total floor area of the room.
- B. Every habitable room shall have at least one window or skylight which can easily be opened, or another device as will adequately ventilate the room. The total openable window area in every habitable room, shall be equal to at least forty-five percent of the minimum window area size or minimum skylight type window size as required, or shall have other approved equivalent ventilation.
- C. Every bathroom equipped with more than one water closet compartment shall comply with the light and ventilation requirements for habitable rooms.

5-56. - Space, use and location standards.

~~A. —Room Sizes. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the town Residential Building Code. (Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as a part of the floor area in computing the total area of the room to determine maximum permissible occupancy.) Every dwelling unit shall contain at least one hundred fifty square feet of habitable floor area for the first occupant, at least one hundred square feet of additional habitable area for each of the next three occupants, and at least seventy five square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty square feet of floor area for each occupant twelve years of age and over, and at least thirty five square feet of floor area for each occupant under twelve years of age.~~

~~A. B.~~ Ceiling Height. ~~At least one-half of the floor area of-~~Every habitable room shall have a ceiling height of not less than seven feet ~~and six inches.~~

~~B. C.~~ Cellar. No cellar shall be used for living purposes unless:

1. The floor and walls are substantially watertight;
2. The total window area, total openable window area and ceiling height are equal to those required for a habitable room; and
3. The required minimum window area of every habitable room is entirely above the grade adjoining the window area, except where the windows face a stairwell, window well or access way.

5-57. - Safe and sanitary maintenance standards.

- A. Exterior Foundation, Walls and Roofs. Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance of penetration of moisture or the weather.
- B. Interior Floors, Walls and Ceilings. Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- C. Windows and Doors. Every window, exterior door, basement or cellar door and hatchway shall be substantially weather tight, watertight and rodent proof; and shall be kept in sound working condition and good repair.
- D. Stairs Porches and Appurtenances. Every inside and outside stair, porch and any appurtenances 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.
- E. Bathroom and Kitchen Floors. Every bathroom and kitchen floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the floor to be easily kept in sound condition and good repair.
- F. Supplied Facilities. Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- G. Drainage. Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
- H. ~~Smoke Detector Systems. Every dwelling unit shall be provided with an approved listed smoke detector installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm. The detector shall be tested in accordance with and meet the requirements of IRC and the household fire warning equipment provisions of NFPA 72 UL 217, Single and Multiple Station Smoke Detectors.~~
 - 1. Every dwelling shall be equipped with smoke detectors installed to protect occupants in all sleeping areas. Operable smoke alarms, shall be either battery-operated or electrical, having an Underwriters' Laboratories, Inc. listing or other equivalent national testing laboratory approval, and installed in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions.
 - 2. Every dwelling shall have a minimum of one operable carbon monoxide alarm per rental unit per level, either battery-operated or electrical, that is listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, and install the carbon monoxide alarms in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions.
 - 3. A carbon monoxide alarm may be combined with smoke alarms if the combined alarm does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke alarms; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.
 - 4. The requirements in subsections H. (2.) and H (3.) above apply only to dwelling units having a fossil-fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage.

5-58. - Insect, rodent and infestation control standards.

- A. Screens. For protection against mosquitoes, flies and other insects every dwelling shall have:

1. Supplied and installed screens on every door opening leading directly from the dwelling to outdoor space, except that sliding doors, doors with self-closing devices, doors on mobile homes with self-closing devices and doors that open into rooms of living spaces that are artificially ventilated or air conditioned are exempt from this provision.
 2. Supplied and installed screens on every window or other device with an opening to outdoor space, except that this requirement shall not apply for any room or rooms of a dwelling that are ventilated year round with an operable and installed heating and air conditioning system.
- 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 other approved device as will effectively prevent their entrance.
- C. Infestation. Every dwelling shall be maintained in a manner to be free of any infestations of insects, rodents or other pests. 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 the extermination whenever his or her dwelling unit is the only one infested. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- D. Rubbish Storage and Disposal. Every dwelling shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of the dwelling or dwelling unit shall be responsible for the removal of rubbish.
- E. Garbage Storage and Disposal. Every 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 garbage container as required by town ordinances.

5-59. - Rooming house standards.

- A. All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter, shall be applicable to rooming houses, and to every person who operates a rooming house or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following divisions:
1. Water Closet, Hand Lavatory and Bath Facilities. At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever the facilities are shared. All facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway and shall not be more than one story removed from any of the persons sharing the facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. The required facilities shall not be located in a cellar.
 - ~~2. Minimum Floor Area for Sleeping Purposes. Every room occupied for sleeping purposes by one occupant shall contain at least seventy square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty square feet of floor area for each occupant twelve years of age and over and at least thirty five square feet of floor area for each occupant under twelve years of age.~~
 2. ~~3.~~ Sanitary Conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; and 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.

3. 4. Sanitary Facilities. Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection 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.

B. Full compliance with a standard means that if any part of the stated standard is not complied with by a particular dwelling then that dwelling has failed to fully comply with the enumerated standard. For example, in regard to Section 5-52(A), if all standards are met in a dwelling except that a supply of hot water is not provided then the dwelling fails to fully comply with Section 5-52(A).

5-60. - Dwellings not in compliance—Not unfit for human habitation.

A. In any case where the housing inspector determines that a dwelling fails to fully comply with one or more but less than seven of the above enumerated standards of dwelling fitness, the dwelling shall not be found to be unfit for human habitation and shall not be subject to the procedures and remedies as provided for in this chapter for dwellings unfit for human habitation. Each failure of noncompliance, however, shall constitute a violation of the terms of this chapter and shall subject the violator to the penalties and enforcement procedures, civil or criminal or both, of Section 5-70.

B. In making the determination as described in this section, the housing inspector shall not be required to make notice and hold the hearing as called for in Section 5-49, but the housing inspector may do so if the determination of the severity and classification of dwelling fitness is not clear to the housing inspector upon preliminary investigation.

5-61. - Procedure after hearing—Order.

A. If, after notice and hearing, the housing inspector determines that the dwelling under consideration is unfit for human habitation in accordance with the standards set forth above, he or she shall state in writing his or her findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:

1. If the repair, alteration or improvement of the dwelling can be made at a cost of less than fifty percent of the value of the dwelling, requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation, based upon the housing inspector's standards for closing dwellings; or
2. If the repair, alteration or improvement of the dwelling cannot be made at a cost of less than fifty percent of the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish the dwelling. If, after notice and hearing, the housing inspector determines that the dwelling under consideration is not unfit for human habitation but is not in full compliance with one or more standards of dwelling fitness as set forth above, he may proceed with the enforcement procedures of Section 5-71 of this chapter, civil or criminal or both.

B. Whenever a determination is made pursuant to subsection A or (A) (2) of this section 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 those notices. A minimum period of forty-five days from the mailing of notice shall be given before removal or demolition by action of the 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 inspector shall certify the mailing of the notices, and the certifications shall be conclusive in the absence of fraud. Only an organization that has filed a written request for notices may raise the issue of failure to mail notices, and the sole remedy shall be an order requiring the inspector to wait forty-five days before causing removal or demolition.

5-62. - Failure to comply with order.

- A. If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the housing inspector may:
1. Cause the dwelling to be repaired, altered or improved or to be vacated and closed; or
 2. Cause to be posted on the main entrance of any dwelling, 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 violation of this chapter.
- B. If the owner fails to comply with an order to remove or demolish the dwelling, the housing inspector may:
1. Cause the dwelling to be vacated and removed or demolished; or
 2. Cause to be posted on the main entrance of any dwelling, 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 violation of this chapter.
- C. The duties of the housing inspector set forth in ~~subsections A and B (5-47)~~ shall not be exercised until the board of commissioners shall have, by ordinance, ordered the housing inspector to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the housing inspector shall have found to be unfit for human habitation and which property or properties shall be described in this chapter. No ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the Housing Code. For the purposes of this subsection, a period of ninety days following the date of the housing inspector's order shall constitute a reasonable opportunity. This ~~order chapter~~ 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.
- D. The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the housing 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 G.S. Section ~~160A-443-160D~~ 1203. If the dwelling is removed or demolished by the housing inspector, he or she shall sell the materials of the dwelling, and any personal property, fixture 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 housing 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 of the decree of the court.
- E. If any occupant fails to comply with an order to vacate dwelling, the housing inspector may file a civil action in the name of the town to remove the occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any persons occupying the 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. Section 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and at the hearing the housing inspector shall have produced the certified copy of the ordinance adopted by the board of commissioner pursuant to subsection C authorizing the housing inspector to proceed to vacate the occupied dwelling, the magistrate shall have the authority to 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. Section 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. Section 7A-228, and the execution of that judgment may be stayed as provided in G.S. Section 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 subsection, unless the occupant was served with notice at least thirty days before the filing of the summary

ejection proceeding that the board of commissioners has ordered the housing inspector to proceed to exercise his or her duties under subsections A, B and C of this section to vacate and close or remove and demolish the dwelling.

5-63. - Service of complaints and orders.

- A. Complaints or orders issued by an inspector shall be served upon persons either personally or by ~~registered or~~ certified mail. When service is made by ~~registered or~~ certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after 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 not later than the time at which personal service would be required under the provisions of this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

5-64. - Appeals.

- A. The board of adjustment is hereby appointed as the housing appeals board to which appeals from any decision or order of the housing inspector may be taken. Except where this chapter provides for different rules or procedures, the board of adjustment acting as the housing appeals board shall follow its rules of procedure, which may be amended to provide specifically for this function.
- B. An appeal from any decision or order of the housing inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the town. Any appeal from the housing inspector shall be in writing and shall be taken within ten days from the rendering of the decision or service of the order by filing with the housing inspector and with 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 an appeal is from a decision of the housing inspector refusing to allow the person aggrieved thereby to do any act, his or her 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 or her, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her 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 written notice to the housing inspector, by the board, or by a court of record upon petition made pursuant to subsection E of this section.
- C. The board of adjustment 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 housing inspector, but the concurring vote of four-fifth of the members of the board shall be necessary to reverse or modify any decision or order of the housing 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 chapter, to adapt the application of the chapter to the necessities of the case to the end that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.

- D. Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen days of the decision of the board, but not otherwise.
- E. Any person aggrieved by an order issued by the housing inspector or a decision rendered by the board may petition the superior court for an injunction, restraining the housing inspector from carrying out the order or decision and the court may, upon the petition, issue a temporary injunction restraining the housing inspector pending a final disposition of the cause. The petition shall be filed within thirty days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within twenty 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 the final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

5-65. - Alternative remedies.

- A. Nothing in this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this chapter shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in Section 5-70 of this chapter.
- B. No dwelling shall be hereafter erected, altered, moved or changed in occupancy without a certificate of occupancy. In any case where the housing inspector, after notice and hearing as required herein, finds that a dwelling or dwelling unit is unfit for human habitation, he or she shall withhold issuance of a certificate of occupancy for the dwelling or dwelling unit until the time that he or she determines that it is fit for human habitation. In addition, in any case where the housing inspector, after preliminary investigation as provided for herein, concludes, based upon that investigation, that a dwelling or dwelling unit is unfit for human habitation and believes that the occupancy of the dwelling or dwelling unit could cause imminent peril to life or property from fire or other hazards, he or she shall withhold issuance of a certificate of occupancy for the dwelling or dwelling unit until a time that he or she determines that it is fit for human habitation.
- C. If any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this chapter or of any valid order or decision of the housing inspector or board made pursuant to any ordinance or code adopted under authority of this chapter, the housing inspector may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or occupancy, to restrain, correct or abate the violation, to prevent the occupancy of the dwellings, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

5-66. - Conflict with other provisions.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town's jurisdiction shall prevail. The North Carolina Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this chapter.

5-67. - Repeal and reenactment of existing housing code.

The rewriting of this chapter in part carries forth by reenactment some of the provisions of the existing Housing Code of the town of North Wilkesboro and it is not intended to repeal but rather to reenact and continue in force existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the Housing Code which are not reenacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of the Housing Code in effect, which are now pending in any of the courts of this state or of the United States,

shall not be abated or abandoned by reason of the adoption of this chapter, but shall be prosecuted to their finality the same as if this chapter had not been adopted; any and all violations of the existing chapter, prosecutions for which have not been instituted may be filed and prosecuted; nothing in this chapter shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may have been instituted or prosecuted.

5-68. - Validity.

- A. If any section, division, sentence, clause or phrase of this chapter is for any reason held to be invalid, the decision shall not affect the validity of the remaining portions of this chapter. The board of commissioners hereby declares that it would have passed this chapter and each section, subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, divisions, sentences, clauses or phrases be declared invalid.
- B. All ordinances in conflict with the provisions of this chapter are hereby repealed to the extent of conflict.
- C. This chapter shall become effective upon its adoption by the board of commissioners of the town of North Wilkesboro, North Carolina.

5-69. - Violations.

In addition to the conditions, acts or failures to act that constitute violations specified in this chapter above, it shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the inspector duly made and served as herein provided, within the time specified in the order. It shall be unlawful for the owner of any dwelling, with respect to which an order has been issued pursuant to Section 5-61, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition.

5-70. - Penalties.

- A. Criminal Penalties. Any person, firm or corporation who violates the provisions of this chapter or fails to comply with any of its requirements shall, upon conviction, be guilty of a Class 3 misdemeanor and shall be fined not more than a maximum of five hundred dollars, ~~imprisonment of up to thirty days, or both, for each violation,~~ as provided in North Carolina General Statutes Section 14-4. The housing inspector may refer a violation to the district attorney for institution of criminal prosecution of the alleged violator.
- B. Civil Penalties. The following civil penalty amounts are hereby established:
 - 1. Notice of Violation. Correct violation within ~~the specified timeframe (typical timeframe) ten to thirty days;~~
 - 2. First civil penalty citation: fifty dollars;
 - 3. Second ~~and subsequent~~ civil penalty citation(s) for same offense: one hundred dollars;
 - ~~4. Third civil penalty citation for same offense: two hundred fifty dollars;~~
 - ~~5. Fourth civil penalty citation for same offense: five hundred dollars.~~

~~Subsequent citations for the same violation may be issued by the building inspector once the "grace period" has expired in association with the initial notice of violation.~~ Each day the violation remains uncorrected shall constitute a separate violation that subjects the violator to additional civil penalties. In addition to civil penalties rendered, the violator may be required to pay any and/or all attorney's fees in the collection of monetary penalties or fees.

- C. ~~Settlement of Claims. The building inspector is authorized to determine the amount of payment that will be accepted in full and final settlement of some or all of the claims the governing body may have in connection with the violation. The building inspector shall indicate in writing the claims from which~~

~~the violator is released. If the violation has not been remedied, payment shall not release a violator from potential criminal prosecution or a claim for injunctive relief and/or an order of abatement.~~

~~D.—Continuing Violations. The building inspector may issue a civil penalty citation for a violation that continues without being corrected. The violator in such cases may be assessed a penalty for each day of the continuing violation. An initial civil penalty citation for a single violation must be issued before a civil penalty citation for a continuing violation is issued. If the violator has failed to pay the penalty and correct the violation after the initial civil penalty citation, the violator is subject to a civil penalty citation for a continuing violation with a daily penalty. An initial civil penalty citation is not required if the town has previously issued a civil penalty citation to the violator for the same violation at the same location within the previous two years.~~

~~The building inspector may give a single notice of a civil penalty citation for a continuing violation. The notice must contain a copy of the notice of violation and must state that the violation is continuing, that a daily penalty of a specified amount is being imposed, and that the penalty is cumulative.~~