

Chapter 153: MINIMUM HOUSING STANDARDS

| | |
|---|--|
| <p>SECTION</p> <p>GENERAL PROVISIONS</p> <p>153.01 Findings; purpose; authority</p> <p>153.02 Scope</p> <p>153.03 Definitions</p> <p>153.04 Dwelling unfit for human habitation: nuisance</p> <p>Minimum Standards For Dwellings</p> <p>153.15 Standards of dwellings & dwelling units fitness</p> <p>153.16 Structural standards</p> <p>153.17 Plumbing standards</p> <p>153.18 Heating standards</p> <p>153.19 Electrical standards</p> <p>153.20 Ventilation standards</p> <p>153.21 Space, use and location standards</p> <p>153.22 Safe and sanitary maintenance standards</p> <p>153.23 Insect, rodent and infestation control standards</p> <p>153.24 Overcrowding standards</p> <p>Minimum Standard for Rooming Houses</p> <p>153.35 Provisions applicable to rooming houses</p> <p>153.36 Water closet, hand lavatory and bath facilities</p> <p>153.37 Minimum floor area for sleeping purposes</p> <p>153.38 Sanitary conditions</p> <p>153.39 Sanitary facilities</p> <p>Administration and Enforcement</p> <p>153.50 Office of Code Enforcement Officer created; powers</p> <p>153.51 Inspections</p> <p>153.52 Administrative liability</p> <p>153.53 Owner and occupants responsibilities</p> <p>153.54 Same – enforcement of responsibilities</p> <p>153.55 [reserved]</p> | <p>153.56 Preliminary investigation; notices; hearing</p> <p>153.57 Procedure after hearing; order</p> <p>153.58 Failure to comply with orders</p> <p>153.59 Service of complaints and orders</p> <p>153.60 Appeals</p> <p>153.61 Alternative remedies</p> <p>153.62 Conflict with other provisions</p> <p>153.63 Violations</p> <p>153.64 Reserved</p> <p>153.65 Repeal and reenactment of existing minimum housing code</p> <p style="text-align: center;">GENERAL PROVISIONS</p> <p>§ 153.01 FINDINGS; PURPOSE; AUTHORITY.</p> <p>(A) Pursuant to G.S. §160A-441, it is hereby found and declared that there exist in the city and its area of extraterritorial jurisdiction dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe and unsanitary and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the city and its extraterritorial jurisdiction.</p> <p>(B) In order to protect the health, safety and welfare of the residents of the city and its area of extraterritorial jurisdiction as authorized by Article 19, Chapter 160A of the North Carolina General Statutes, 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. §160A-424 through 160A-432, 160A-441 through 160A-450, and 160A-193.</p> <p>(C) In addition, it is hereby found and declared, under the authority of G.S. §160A-174, that there exist in the city dwellings which,</p> |
|---|--|

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. Such conditions, if not corrected, can lead to deterioration and dilapidation of dwellings which render them unfit for human habitation.

(D) This chapter is hereby declared to be remedial and shall be construed to secure the beneficial interest and purposes thereof, which are public health, safety, 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 as such. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-99 Am. Ord. 0-2001-25 passed 06-19-01)

§ 153.02 SCOPE.

(A) The provisions of this chapter shall apply to all dwellings or dwelling units within the city and its area of extraterritorial jurisdiction regardless of when such units were constructed, altered, repaired or improved. Portable, mobile or demountable buildings or structures, including trailers, when used or intended for use for housing within the jurisdiction, shall be subject to the applicable provisions of this chapter. 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.

(B) The provisions of this chapter shall also apply to abandoned structures which are found by the City Council 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. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-99 Am. Ord. 0-2001-25 passed 06-19-01)

§ 153.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning in the interpretation and enforcement of this chapter.

ABANDONED STRUCTURE. Any structure, whether designed and intended for residential or other uses, which is vacant or not in active use, regardless of purpose or reason, for the past two-year period and which is determined by the Code Enforcement Officer to be unfit for human habitation or occupancy based upon the standards as set forth in this chapter.

ALTERATION. As applied to a building or structure, shall mean a change or rearrangement in the structural parts or in the existing facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another; and the term “alter” in its various moods and tenses and its participle, refer to the making of an alteration.

ACCESSORY BUILDING. A building or structure the use of which is incidental to that of the main building or structure, and which is located on the same lot or on a contiguous lot.

AGENT. A person who acts for or represents another.

APARTMENT. A room or suite of rooms occupied, or which is intended or designed to be occupied as the home or residence of one (1) individual, family or household for housekeeping purposes.

APPROVED. As applied to a material, device or mode of construction, shall mean approved by the Code Enforcement Officer under the provisions of this code, or by other

authority designated by law to give approval in the matter in question.

AREA:

(1) As applied to the dimension, shall mean the maximum horizontal projected area of the building.

(2) As applied to the dimensions of a room, shall mean the total square footage of floor area between finished walls.

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

BUILDING. Any structure built for the support, shelter or enclosure of persons which has enclosed walls for fifty (50) percent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof."

CELLAR. A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

CLOSE. To secure the building so that unauthorized persons cannot gain entrance to the building.

CODE ENFORCEMENT OFFICER.

The person who has been designated, in writing, by the City Manager or is otherwise authorized by ordinances adopted hereunder to administer and enforce the provisions of this chapter.

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

DETERIORATED. A dwelling that is unsafe or unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards of fitness established by this chapter at a cost not in excess of fifty percent (50%) of its physical value, as determined by finding of the Code Enforcement Officer.

DILAPIDATED. A dwelling that is unsafe or unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards of fitness established by this chapter at a cost in excess of fifty percent (50%) of its physical value, as

determined by a finding of the Code Enforcement Officer.

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

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

GARBAGE. The animal and vegetable waste or by-product 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 materials for flies, insects or animals.

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

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

MANUFACTURED HOME OR MOBILE HOME. A structure as defined in G.S. Section 143-145(7).

MULTIPLE DWELLING. Any dwelling containing two (2) or more dwelling units.

OCCUPANT. Any person over one year of age living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

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

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

(1) Shall be the holder of the title in fee simple and every mortgagee of record to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall comply with the provisions of this chapter, and rules and regulations adopted pursuant thereto to the same extent as if he were the owner.

PARTIES IN INTEREST. All individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

PIER. A masonry support extending from the ground and footing to and supporting the building or portion thereof. Pier sizes and spacing shall conform to the specifications of the North Carolina State Building Code.

PLUMBING. All of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwasher, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. Any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, building regulations, or other activities concerning dwellings in the city.

PUBLIC SPACE. That space within any dwelling which is open to use by the general public.

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

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

RUBBISH. Combustible and noncombustible waste materials, except garbage and ashes. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

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

TEMPORARY HOUSING. Any tent, trailer, or other structure used for human shelter which: is designed to be transportable; which is not attached to the ground, to another structure, or to any utility system on the same premises for more than 30 consecutive days; and/or which does not have a permanent foundation (footings, piers and foundation wall).

TENANT. Any person who alone or jointly and severally with others occupies a residential building under a lease or holds a legal tenancy in a building.

UNFIT FOR HUMAN HABITATION. Those conditions existing in a dwelling which violate or do not comply with one or more of the minimum standards of fitness, or with one or more of the responsibilities of owners and occupants established by this chapter. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-99 Am. Ord. 0-2001-25 passed 06-19-01)

§ 153.04 DWELLING UNFIT FOR HUMAN HABITATION; NUISANCE

The Code Enforcement Officer shall determine that a dwelling is unfit for human habitation if he finds that any one or more of the conditions set out in §153.15 herein, exists in such dwelling or one or more of the responsibilities of owners and occupants established by this chapter is not met. All buildings or portions of buildings which are used or intended for use as dwellings and are, under the provisions of this chapter, unfit for human habitation, are hereby declared to be a public nuisance, and shall be repaired or

rehabilitated to the standards of this chapter or demolished in accordance with the procedure set forth herein.

(Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-99 Am. Ord. 0-2001-25 passed 06-19-01)

153.15 STANDARDS OF DWELLINGS AND DWELLING UNITS FITNESS

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness and all of the requirements of this chapter. No person shall occupy as owner occupant, or let to another for occupancy or use as a human habitation, any dwellings or dwelling units which do not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this chapter. All work shall be done in a workmanlike manner. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-99 Am. Ord. 0-2001-25 passed 06-19-01)

§ 153.16 STRUCTURAL STANDARDS.

(A) *Foundation.* Foundations shall conform to the following:

(1) Beneath the building there shall be firm ground, which is reasonably dry, properly drained and no water running under the building.

(2) There shall be sound footings, adequate bearings.

(3) There shall be sound piers, no loose mortar or masonry.

(4) There shall be no piers in which the plumb line from the top center falls outside the middle one-third (1/3) of the pier base.

(5) There shall be no isolated solid masonry piers exceeding in height ten (10) times the least dimension of the pier.

(6) There shall be no wood stiff-knee piers.

(7) There shall be masonry underpinning on all dwelling units with

ventilation as required by the North Carolina State Building Code.

(B) *Floors.* Floors shall conform to the following:

(1) There shall be no decayed, termite damaged, fire-damaged, broken, overloaded or sagging sills.

(2) Sills shall be properly supported and reasonably level.

(3) Joists shall not be overloaded, sagging or broken, and shall be structurally sound and not likely to cause structural weakness in the future.

(4) Maximum spans for floor joists and sills, providing they show no signs of being weak or overloaded, shall comply with the requirements of the North Carolina State Building Code..

(5) Flooring shall be weather tight without holes or excessive cracks which permit air to penetrate rooms.

(6) Flooring shall be reasonably smooth and not decayed, fire damaged or worn through.

(7) There shall be no loose floors.

(8) Floors shall be reasonably level.

(9) There shall be no use of the ground for floors, or wood floors on the ground.

(10) The flooring in each room shall consist of the same or similar material; and where covering or finishing is provided, such covering or finishing shall be reasonably smooth and not worn through.

(11) Bath, kitchen and washer/dryer area floors shall have water-resistant floor coverings.

(C) *Walls, Exterior.* Exterior walls shall conform to the following:

(1) There shall be no wall in which the plumb line from the top center of studs falls outside the base plate at any point along the wall.

(2) Maximum spacing for studding shall conform to the specifications of the North Carolina State Building Code, provided the spacing for studding shall not shows signs of being weak or overloaded. Otherwise, lesser spacing for studding shall be required.

(3) Studs shall be structurally sound and not likely to cause structural weakness in the future.

(4) There shall be no broken or cracked structural members.

(5) All siding shall be weather tight, with no holes or excessive cracks or decayed, rotted, deteriorated or damaged boards which permit air to penetrate rooms or otherwise admit rodents.

(6) There shall be no loose siding.

(7) There shall be no deterioration because of lack of preventive maintenance consisting of painting, waterproofing, and repair.

(D) *Walls, Interior.* Interior walls shall conform to the following:

(1) Interior finish shall be free of holes and excessive cracks which permit air to penetrate rooms, and if painted or papered, shall be free of chips or excessive peeling.

(2) There shall be no walls in which the plumb line from the top center of studs falls outside the base plate at any point along the wall.

(3) There shall be no loose plaster, loose boards, or other loose wall materials.

(4) There shall be no cardboard, newspaper or highly combustible or improper wall finish; and all wall materials shall be of the same or similar quality and material.

(5) Maximum spacing for studding shall conform to the specifications of the North Carolina State Building Code, provided the studding does not show signs of being weak or overloaded. Otherwise, lesser spacing for studding shall be required.

(6) Studs shall be structurally sound and not likely to cause structural weakness in the future.

(7) There shall be no broken or cracked studs or other structural members.

(8) There shall be no rotted, deteriorated or damaged walls and all walls shall be free from holes or cracks which might admit rodents.

(9) There shall be headers above all doors and windows.

(E) *Ceilings.* Ceilings shall conform to the following:

(1) There shall be no joists which are decayed, broken, sagging, or improperly supported at the ends.

(2) Maximum spacing for ceiling joists shall conform to the specifications of the North Carolina State Building Code, provided the ceiling joists do not show signs of being weak or overloaded. Otherwise, lesser spacing for ceiling joists shall be required.

(3) Maximum spans for ceiling joists shall comply with the specifications of the North Carolina State Building Code, provided the ceiling joists do not show signs of being weak or overloaded. Otherwise, lesser spans for ceiling joists shall be required.

(4) There shall be no holes or excessive cracks which permit air and dust to penetrate rooms.

(5) There shall be no loose plaster, boards, gypsum wallboard, or other ceiling finishes.

(6) There shall be no cardboard, newspaper, highly combustible or improper ceiling finishes; and all ceiling materials shall be of the same or similar quality and material.

(7) Ceiling joists shall be structurally sound and not likely to cause structural weakness in the future.

(F) *Roofs.* Roofs shall conform to the following:

(1) There shall be no rafters which are decayed, broken, or improperly supported at the ends.

(2) No rafters shall be seriously damaged by fire.

(3) Rafters shall be properly braced and tied four (4) feet on center maximum.

(4) The attic shall be ventilated as required by the North Carolina State Building code.

(5) Sheathing shall not be loose and shall be structurally sound and not likely to cause structural weakness in the future.

(6) There shall be no loose roof covering, no holes, and no leaks causing damage to the structure or rooms.

(7) There shall be a minimum of Class "C" roof covering.

(8) There shall be proper flashing at walls or chimneys, so as to be weathertight and watertight.

(G) *Porches*. Porches shall conform to the following:

(1) The floor, ceiling, and roof shall be equal to requirements set forth above, except sills, joists, and floors need not be level if providing drainage of floors; floors need not be weather tight; the ceiling height may be a minimum of seven (7) feet; and the attic need not be vented.

(2) Every porch, terrace or entrance platform thirty (30) inches or more above adjacent finished grade shall be equipped with railings or guards not less than thirty six (36) inches high, unless other effective barriers provide adequate safety.

(3) If post and railings are provided, they shall be structurally sound and not likely to cause structural weakness in the future.

(4) Porches shall be maintained in such condition that they will not fail or collapse.

(H) *Stairs and Steps*. Stairs and steps shall conform to the following:

(1) Stairs and steps shall be free of holes, grooves, and cracks large enough to constitute accident hazards.

(2) Steps shall be maintained in such condition that they will not fail or collapse.

(3) Stairwells and flights of stairs more than thirty inches (30) high shall have rails not less than thirty (30) to thirty eight (38) inches measured vertically from the nose of the treads to the top of the rail.

(4) Every rail shall be firmly fastened and maintained in good condition.

(5) No flight of stairs shall be settled more than one inch out of its intended position or pulled away from supporting or adjacent structures.

(6) Supports shall not sag and shall be structurally sound and not likely to cause structural weakness in the future.

(7) Every stair riser shall be reasonably uniform in height, and treads shall be sound and securely fastened in position and strong enough to bear a concentrated load of at

least three hundred (300) pounds without danger of breaking through.

(8) Stairs and steps shall conform to the specifications of the North Carolina State Building Code.

(I) *Egress*. All dwellings shall contain adequate facilities for egress in case of fire or panic.

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

(K) *Accessory Buildings*. All accessory buildings and structures, including detached garages, shall be maintained structurally sound and in good repair or shall be razed to grade level and the debris therefrom removed from the premises. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-99. Ord. 0-2001-25 passed 06-19-01) Penalty, see §10.99

§ 153.17 PLUMBING STANDARDS.

(A) All plumbing shall be installed in accordance with the North Carolina Plumbing Code and shall be maintained in a state of good repair and in good working order.

(B) All plumbing shall be connected to the city sanitary sewer system where available or to another approved individual sewage disposal system.

(C) All fixtures shall be operable and accessible to the occupants of the dwelling.

(D) There shall be no broken water closet bowls.

(E) Water closets shall not be loose or leaking.

(F) No leaks shall be in shower stall floor and/or wall.

(G) There shall be adequate facilities for furnishing hot water to each tub or shower, lavatory, and kitchen sink.

(H) There shall be installed an approved potable water supply inside the building for each dwelling unit.

(I) There shall be installed in each dwelling unit not less than a kitchen sink, a water closet, tub or shower, lavatory and sink and an adequate supply of both cold and hot

water.

(J) There shall be separate toilet facilities for each dwelling unit.

(K) Toilet and bathing facilities shall be protected from the weather.

(L) All water piping shall be protected from freezing by proper installation in unprotected space.

(M) Sewer and water pipes shall be supported with no broken or leaking pipes.

(N) Every water closet compartment floor surface and bathroom floor surface shall be so constructed and maintained as to be reasonably impervious to water and so as to permit such floor to be readily kept in a clean and sanitary condition.

(O) The water closet and tub or shower shall be located in a room or rooms affording privacy to use. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-99 Ord. 0-2001-25 passed 06-19-01) . Penalty, see § 10.99

§ 153.18 HEATING STANDARDS.

(A) Every building and every dwelling unit shall be weatherproof and capable of being adequately heated, and the heating equipment in every dwelling or dwelling unit shall be maintained in good order and repair.

(B) Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either subparagraph (1) or (2) of this paragraph (B):

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected to a minimum temperature of sixty eight (68) degrees Fahrenheit measured at a point three (3) feet above the floor with an outside temperature of twenty (20) degrees Fahrenheit during winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling shall be provided with sufficient, chimneys, flues, or gas vents, whereby heating appliances may be connected, so as to heat all habitable rooms to a minimum temperature of sixty eight (68) degrees

Fahrenheit measured three (3) feet above the floor with an outside temperature of twenty (20) degrees Fahrenheit during winter conditions.

(C) All electric, gas and oil heating equipment installed on the premises shall be listed by Underwriters' Laboratories or American Gas Association and installed in accordance with the provisions of the North Carolina State Building code.

(D) There shall be no loose bricks in chimneys.

(E) There shall be no holes in flues.

(F) There shall be no suspended or hanging masonry chimneys.

(G) Thimbles shall be grouted in tightly.

(H) Thimbles shall not be broken or cracked.

(I) Thimbles shall be high enough for stovepipe to rise one-quarter (1/4) inch per foot minimum.

(J) The hearth shall be at least sixteen (16) inches deep and eight (8) inches beyond each side of the fireplace opening.

(K) No combustible materials shall be within Seven (7) of the top and Six (6) inches of either side of the fireplace opening.

(L) Fireplaces shall be enclosed with masonry when the chimney is used as a flue for a stove.

(M) A stove shall be within six (6) feet of a thimble serving it.

(N) No combustible material shall be within twelve (12) inches of a stovepipe.

(O) No stovepipe shall protrude through combustible walls.

(P) In multiple dwellings and rooming houses with central heat, the furnace room shall be enclosed with material having at least a one-hour fire protection rating.

(Q) Fireplaces shall be used for supplementary heating only and not for basic heat. See B (2) (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-99 Ord. 0-2001-25 passed 06-19-01) Penalty, see § 10.99

§ 153.19 ELECTRICAL STANDARDS.

(A) Every dwelling shall be wired for electrical lights and convenience receptacles.

(B) No receptacles, ceiling fixtures, or other fixtures shall be hanging loose.

(C) All switches and receptacles shall be safely operable.

(D) Every habitable room shall contain not less than two (2) wall-type electrical convenience receptacles connected in such manner as required by the National Electrical Code.

(E) There shall be installed in every habitable room, bathroom, laundry room, hallway, stairway and furnace room at least one supplied ceiling or wall type electrical light fixture; provided, further, that the ceiling light fixture may be omitted in a living room and bedrooms, provided three (3) electrical convenience receptacles are installed, one (1) of which is controlled from a wall switch.

(F) There shall be no unsafe wiring.

(G) There shall be no drop or extension cords in excess of six (6) feet in length.

(H) No circuits shall be overloaded. Fuses shall be sized correctly and not bridged out.

(I) All fixtures, receptacles and equipment in every public hall and stairway in every multiple dwelling unit shall be adequately lighted by electrical lights at all times when natural light is not sufficient. All wiring to be installed and maintained shall be in accordance with the National Electrical Code. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-99 Ord. 0-2001-25 passed 06-19-01) Penalty, see § 10.99

§ 153.20 LIGHT AND VENTILATION STANDARDS.

(A) *Generally.* 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 such room. Whenever walls or other portions of structures face a window of any such room and such light obstructions are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as

contributing to the required minimum total window area. Whenever the only window in a room is a skylight type window in the top of such a room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

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

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

(D) *Public Halls.* Every public hall and inside stairway in every multifamily dwelling shall be adequately lighted at all times with an illumination of at least three (3) foot candles per square foot in the darkest portion of the normally traveled stairs and passageways.

(E) *Window locks.* All window openings to the outside shall be reasonably weathertight and shall have operable locks. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-99 Ord. 0-2001-25 passed 06-19-01) Penalty, see § 10.99

§ 153.21 SPACE, USE AND LOCATION STANDARDS.

(A) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the North Carolina State 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.)

(B) 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.

(C) At least one (1) room in the dwelling shall contain not less than one hundred fifty (150) square feet.

(D) A kitchen shall not be less than fifty (50) square feet.

(E) A first bedroom, if any, shall be not less than seventy (70) square feet.

(F) [Reserved].

(G) [Reserved].

(H) There shall be at least one hundred fifty (150) square feet of floor space in habitable rooms for the first occupant in each dwelling unit and at least one hundred (100) square feet for each additional occupant.

(I) Those habitable rooms which must be included to meet the foregoing minimum space requirements shall be at least seven (7) feet wide in any part with at least one-half (1/2) of the floor area having a ceiling height of at least seven (7) feet six (6) inches. That portion of any room where the ceiling height is less than five (5) feet shall not be considered as part of the required floor area.

(J) No cellar shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total operable window area and ceiling height are equal to those required for a habitable room;

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

(K) [Reserved].

(L) Water closet and bathing facilities shall be enclosed with an operable door and lock for privacy.

(M) There shall be no holes or excessive cracks in walls, ceilings, outside doors or outside windows.

(N) Access shall be provided to all rooms within a dwelling unit without passing through a public space.

(O) Doors shall be provided at all doorways leading to bedrooms, water closet

rooms, and bathrooms and all rooms adjoining a public space.

(P) All doors providing access to any living unit shall have operable locks, and the owner shall provide a change of locks or keys for new tenants

(Q) All doors opening to the outside shall be reasonably weather tight.

(R) A minimum of one approved and listed smoke detector shall be installed adjacent to each sleeping area and on each habitable floor level and basement. Smoke detectors shall be installed in accordance with the manufacturer's recommendation and listing and maintained in proper working order. See NC G.S. § 42-42.

(Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01) Penalty, see § 10.99

§ 153.22 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 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 stairwell, porch and any other 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 floors.* Every bathroom 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 such 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. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01) Penalty, see § 10.99

§ 153.23 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 or 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 such 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 such extermination whenever his 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 city ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage storage and disposal.* Every dwelling 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 Code Enforcement Officer, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by city ordinances.

(Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.24 OVERCROWDING STANDARDS.

There shall be at least one hundred fifty (150) square feet of floor space in habitable rooms for the first occupant in each dwelling unit and at least one hundred (100) square feet for each additional occupant. (Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.35 PROVISIONS APPLICABLE TO ROOMING HOUSES.

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 §153.36 through 153.39. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99 Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.36 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 such facilities are shared. All such 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 such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.37 MINIMUM FLOOR AREA FOR SLEEPING PURPOSES.

Every room occupied for sleeping purposes by one occupant shall contain at least one hundred (100) square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor area for each occupant 12 years of age and over and at least thirty-five (35) square feet of floor area for each occupant under 12 years of age. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01) Penalty, see § 10.99

§ 153.38 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. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01) Penalty, see § 10.99

§ 153.39 SANITARY FACILITIES.

Every water closet, flush urinal, lavatory basin and bathtub or shower required by §153.36 shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01) Penalty, see § 10.99

§ 153.50 OFFICE OF CODE ENFORCEMENT OFFICER CREATED; POWERS.

(A) For the purposes of administering and enforcing the provisions of this chapter, the office of Code Enforcement Officer is hereby created.

(B) The Code Enforcement Officer shall be appointed by the City Manager, shall take and subscribe to the oath of office and shall have such 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) To investigate the dwelling and building conditions and to inspect dwellings, dwelling units and buildings in the city in order to determine which dwellings therein are unfit for human habitation.

(2) To administer oaths and affirmations and to examine witnesses and receive evidence.

(3) To enter upon and within premises and dwellings for the purpose of making examinations and investigations; provided, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.

(4) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate; and

(5) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the provisions of this chapter. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.51 INSPECTIONS.

For the purpose of carrying out the intent of this chapter, the Code Enforcement Officer is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises, including abandoned structures after sufficiently identifying himself. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the Code Enforcement Officer free access to such dwelling, dwelling unit or rooming unit, and its premises, at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such 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. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.52 ADMINISTRATIVE LIABILITY.

Except as may otherwise be provided by statute or local law or ordinance, no officer, agent or employee of the city charged with the enforcement of the housing code shall be

personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter unless he acted with actual malice. (Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.53 OWNER AND OCCUPANTS – RESPONSIBILITIES.

(A) The relative responsibilities of the owners of dwelling units and of the occupants of the dwelling units shall be as follows:

(1) *Public spaces.* Every owner of a building shall be responsible for maintaining in a reasonably clean and sanitary condition, the shared or public spaces of the building and premises thereof.

(2) *Cleanliness.* Every occupant shall be responsible for maintaining in a reasonably clean and sanitary condition that part of the dwelling unit and premises which he occupies and controls.

(3) *Infestation.* Every occupant shall be responsible for the extermination of any insects, rodents, or other pests infesting the dwelling unit; provided, however, that the owner shall be responsible for such extermination if, as a consequence of violations of the standards of fitness, the dwelling unit is not reasonably impervious to pests.

(4) *Rubbish and garbage.* Every occupant shall be responsible for disposing of his rubbish and garbage in a clean and sanitary manner by placing it in adequate facilities for such disposal.

(5) *Plumbing.* Every owner shall be responsible for providing adequate operable plumbing facilities, including an adequate water heater, and for maintaining such facilities in efficient operating condition; every occupant shall be responsible for exercising reasonable care in the use of such facilities and for maintaining such facilities in a clean and sanitary condition.

(6) *Heating.* Every owner shall be responsible for providing adequate operable facilities and appliances supplying heat throughout the dwelling unit in compliance with the standards of fitness; every occupant shall be

responsible for exercising reasonable care in the use of such facilities and appliances.

(7) *Care of premises.* No occupant shall willfully destroy, deface or otherwise impair any of the facilities or equipment of the owner on the premises which they occupy and control, or any part of the building itself. Willful destruction of the premises by the occupant shall be deemed legal grounds for eviction.

(B) Every owner shall remain ultimately responsible for violations of responsibilities imposed upon him by this chapter or any other ordinance although a similar responsibility may also be imposed upon the occupant and although the occupant may have agreed to bear the responsibility imposed by ordinance upon the owner.

(Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.54 SAME – ENFORCEMENT OF RESPONSIBILITIES.

Upon discovering in any building a condition resulting from noncompliance with the provisions in Section 153.53, the Code Enforcement Officer is hereby authorized to order, to take, or otherwise to cause to be taken, such remedial action as is necessary to correct such condition.

(Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.55 [RESERVED]

§ 153.56 PRELIMINARY INVESTIGATIONS; NOTICES; HEARINGS.

Whenever a petition is filed with the Code Enforcement Officer by a public authority, or by at least five residents of the city, charging that any dwelling is unfit for human habitation, or whenever it appears to the Code Enforcement Officer (on his own motion) that any dwelling is unfit for human habitation, the Code Enforcement Officer shall, if his inspection

discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest in such dwellings, a complaint stating the charges in that respect, and containing a notice that a hearing will be held before the Code Enforcement Officer (or his designated agent) at a place within the county in which the property is located, fixed not less than ten (10) days nor more than thirty (30) days after the serving of the complaint. The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Code Enforcement Officer. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.57 PROCEDURE AFTER HEARING; ORDER.

(A) If, after notice and hearing, the Code Enforcement Officer determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling unit to comply with the minimum standards of fitness established by this chapter within the time specified in the order, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation as follows:

(1) If the repair, alteration or improvement of the dwelling can be made at a reasonable cost of less than 50% of the value of the dwelling, the order shall require 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;

(2) If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost of less than 50% of the value of the dwelling, the order shall require the

owner, within the time specified in the order, to remove or demolish such dwelling.

(B) If, after notice and hearing the Code Enforcement Officer 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 Sections 10.19 and 10.99, civil or criminal or both.

Notwithstanding any other provision of law, if the condition of the dwelling would require removal or demolition under subsection (A)(2) of this section and the dwelling is located in a historic district of the city and the historic district commission determines, after a public hearing as provided by the ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. Section 160A-400.14(a).

The Code Enforcement Officer's order shall also provide that the housing to which it applies shall not be occupied if it is vacant as of the date of the order or becomes vacant before the required repair, alteration or improvement has been made, unless the owner obtains from the Code Enforcement Officer a certificate of fitness for occupancy, which shall be issued upon a finding by the administrator that the housing subject to the order is not unfit for human habitation. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.58 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 Code Enforcement Officer shall:

(1) cause to be posted on the main entrance of any such 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.

(2) cause the dwelling to be repaired, altered or improved or to be vacated and closed.

(B) If the owner fails to comply with an order to remove or demolish the dwelling, the Code Enforcement Officer shall:

(1) cause such dwelling to be vacated and removed or demolished; and

(2) cause to be posted on the main entrance of any such 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 Code Enforcement Officer set forth in divisions (A) and (B) shall not be exercised until the City Council shall have by ordinance ordered the Code Enforcement Officer to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the Code Enforcement Officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such 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 this chapter. For the purposes of this subsection, a period of 90 days following the date of the Code Enforcement Officer's order shall constitute a reasonable opportunity. This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(D) [Reserved].

(E) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Code Enforcement Officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed against the real property, have the same priority, and be collected as the lien for special assessment provided in G.S. Chapter 160A, Art. 10. If the dwelling is removed or demolished by the Code

Enforcement Officer, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Code Enforcement Officer, 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.

(F) If any occupant fails to comply with an order to vacate a dwelling, the Code Enforcement Officer may file a civil action in the name of the city to remove such 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 party-defendants any persons occupying such dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. §42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Code Enforcement Officer produces a certified copy of an ordinance adopted by the City Council pursuant to division (C) of this section authorizing the Code Enforcement Officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgement ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. §42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. §7A-228, and the execution of such judgment may be stayed as provided in G.S. §7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that

the City Council has ordered the Code Enforcement Officer to proceed to exercise his duties under divisions (A), (B) and (C) of this section to vacate and close or remove and demolish the dwelling.

(G) Whenever a determination is made pursuant to subsection (A) 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 such notices. A minimum period of forty-five (45) days from the mailing of such notice shall be given before removal or demolition by action of the Code Enforcement Officer, to allow the opportunity for any organization to negotiate with the owner to make repairs or lease or purchase the property for the purpose of providing affordable housing. The Code Enforcement Officer shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Code Enforcement Officer to wait forty-five (45) days before causing removal or demolition. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. O-2001-25 passed 06-19-01)

§ 153.59 SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Code Enforcement Officer pursuant to this chapter, except those being issued under Sections 10.19 and 10.99, shall be served upon persons either personally or by registered or certified mail. If the identities or whereabouts of any owners are unknown and cannot be ascertained by the Code Enforcement Officer in the exercise of reasonable diligence, and the Code Enforcement Officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no 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. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.60 APPEALS.

(A) The Board of Adjustment is hereby appointed as the Housing Appeals Board to which appeals from any decision or order of the Code Enforcement Officer 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 Code Enforcement Officer may be taken by any person aggrieved thereby or by any officer, board or commission of the city. Any appeal from the Code Enforcement Officer shall be taken within ten days from the service of the order by filing with the Code Enforcement Officer and with the Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Code Enforcement Officer shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Code Enforcement Officer refusing to allow the person aggrieved thereby to do any such act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Code Enforcement Officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board of Adjustment, unless the Code Enforcement Officer certifies to the Board of Adjustment after the notice of appeal is filed with him, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life

or property. In 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 (1) day's written notice to the Code Enforcement Officer, the Board of Adjustment, or by a court of record upon petition made pursuant to division (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 of Adjustment 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 Code Enforcement Officer, but the concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to reverse or modify any decision or order of the Code Enforcement Officer. The Board of Adjustment shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(D) Every decision of the Board of Adjustment shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the Board.

(E) Any person aggrieved by an order issued by the Code Enforcement Officer or a decision rendered by the Board of Adjustment may petition the Superior Court for an injunction, restraining the Code Enforcement Officer from carrying out the order or decision and the Court may uphold such petition, issue a temporary injunction restraining the Code Enforcement Officer pending a final disposition of the cause. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. Hearings shall be had by the Court on a petition within twenty (20) days, and shall be given preference over other

matters on the Court's calendar. The Court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction on under this section. (Ord. passed 2-18-92; Am. Ord. O-1997-01, passed 2-4-97; Am. Ord. O-1997-07, passed 4-1-97; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.61 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 city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violations 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 Sections 10.19 and 10.99.

(B) No dwelling shall be hereafter erected, altered, moved, or changed in use without a certificate of occupancy. In any case where the Code Enforcement Officer, after notice and hearing as required herein, finds that a dwelling or dwelling unit is unfit for human habitation, he shall withhold issuance of a certificate of occupancy for such dwelling or dwelling unit until such time that he determines that it is fit for human habitation. In addition, in any case where the Code Enforcement Officer, 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 such dwelling or dwelling unit could cause imminent peril to life or property from fire or other hazards, he shall withhold issuance of a certificate of occupancy for such dwelling or dwelling unit until such time that he 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 Code Enforcement Officer or Board of Adjustment made pursuant to any ordinance or code adopted under authority of this chapter, the Code Enforcement Officer or Board of Adjustment may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use, 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. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.62 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 city, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the city's jurisdiction shall prevail. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.63 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 Code Enforcement Officer duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall be subject to civil penalties as provided in Sections 10.19 and 10.99 of the Monroe Code of Ordinances.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to

section 153.57 of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and removal or demolition, and each day that such occupancy continues after such prescribed time shall be subject to civil penalties as provided in Sections 10.19 and §10.99 of the Monroe Code of Ordinances.

(B) Any owner of a dwelling, except an owner who occupies the dwelling as his principal place of residence, who fails to comply with an order of the Code Enforcement Officer to repair, alter or improve the dwelling, or to vacate and close and remove or demolish the dwelling, within the time specified in the order, shall be subject to civil penalties set forth in Sections 10.19 and §10.99 of the Monroe Code of Ordinances until the dwelling is brought into compliance with the order.

(C) It shall be unlawful for any person, owner or occupant of any dwelling with respect to which an order has been issued pursuant to Section 153.54 to let to another for occupancy as a human habitation or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.64 NOTICE OF LIS PENDENS.

Upon the issuance of a complaint and notice of hearing or an order pursuant thereto, a notice of lis pendens, with a copy of the complaint and notice of hearing or order attached thereto, may be filed in the office of the clerk of superior court of the county. The notice of lis pendens and a copy of the complaint and notice of hearing or order attached thereto shall be indexed and cross indexed in accordance with the indexing procedures of G.S. § 1-117. From the date and time of indexing, the complaint and notice of hearing or order shall be binding upon the successors and assigns of the owners of and parties in interest in the dwelling. A copy of the notice of lis pendens shall be served upon the owners and parties of interest in

the dwelling at the time of filing in accordance with G.S. § 160A-445. The notice of lis pendens shall remain in full force and effect until canceled. The notice of lis pendens shall be canceled upon compliance with the order. Upon receipt of notice of cancellation from the city, the clerk of superior court shall cancel the notice of lis pendens. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01)

§ 153.65 REPEAL AND REENACTMENT OF EXISTING MINIMUM HOUSING CODE.

The rewriting of this chapter in part carries forth by reenactment some of the provisions of the existing Minimum Housing Code of the city and it is not intended to repeal, but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the Minimum 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 Minimum Housing Code in effect, which are not 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; and any and all violations of the existing chapter, prosecutions for which have not been instituted, may be filed and prosecuted. (Ord. passed 2-18-92; Am. Ord. O-1999-37, passed 6-15-99; Am. Ord. O-1999-61, passed 10-5-9999 Ord. 0-2001-25 passed 06-19-01) 99 Ord. 0-2001-25 passed 06-19-01