

ARTICLE V MINIMUM HOUSING CODE

4-50 Finding; purpose

Pursuant to NCGS ~~160D-1201~~ ~~160A-441~~, it is hereby declared that there exists in the City of Mount Airy 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 other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the City.

In order to protect the health, safety and welfare of the residents of the City as authorized by ~~Part 6 of~~ Article ~~12~~ ~~19~~, Chapter ~~160DA~~ of the General Statutes, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by NCGS ~~160D-1205~~ ~~160A-444~~.

4-51 Definitions

The following definitions shall apply in the interpretation and enforcement of this article:

Basement shall mean a portion of a dwelling, which is located partially underground, having direct access to light and air from windows located above the level of the adjoining ground.

Cellar shall mean a portion of a dwelling, which is 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.

Certificate of occupancy shall mean a certificate, which is issued once a dwelling has been certified to meet the requirements of the housing code. A temporary certificate of occupancy may be issued for the temporary or partial occupancy of a dwelling unit for a specified time period.

Deteriorated shall mean that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of fifty (50%) percent of its value, as determined by finding of the Inspector.

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Dilapidated shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article except at a cost in excess of fifty (50%) percent of its value, as determined by finding of the Inspector.

Dwelling shall mean any building, structure, or part thereof, which is wholly or partly used or intended to be used for living, sleeping or habitation by human occupants, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. Temporary housing, as hereinafter defined, shall not be regarded as a dwelling. The term shall include within its meaning the terms rooming house and rooming unit, as hereinafter defined.

Dwelling unit shall mean 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 shall mean the control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination methods approved by the Inspector.

Garbage shall mean the organic waste resulting from the handling, preparation, cooking and consumption of food.

Gender shall mean words having a masculine gender shall include the feminine and neuter genders.

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

Inspector shall mean the Codes Inspector of the City or any authorized agent of the City.

Insulation shall mean a material, which has been manufactured to meet the specified R-value criteria when installed to the manufacturer's specifications.

Junk shall mean any item, including but not limited to, deteriorated or used furniture, appliances, machinery, equipment, building materials, automobile

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parts, tires, or other items, which are either in a wholly or partially deteriorated, rusted, wrecked, junked, dismantled, or inoperative condition.

Littered condition shall mean all discarded manmade materials, including but not limited to, junk, waste materials, building materials, trash, garbage, and other refuse scattered, cast, placed or deposited throughout a yard or yards, so as to appear as a haphazard accumulation of litter.

Multiple dwelling shall mean any dwelling containing more than two dwelling units.

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

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

Outdoor storage shall mean the accumulation of any material, which is not enclosed within the dwelling unit or approved storage building.

Owner shall mean any person who alone, jointly, or severally with others:

- (1) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof; or
- (2) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Party or parties in interest shall mean all persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

Person shall mean any individual, corporation, firm, partnership, association, organization or other legal entity.

Plumbing shall mean and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes,

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water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Public authority shall mean any officer who is in charge of any department or branch of the government of the City of Mount Airy or of Surry County or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the City.

Rooming house shall mean any dwelling, or that part of the 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 brother of the owner or operator.

Rooming unit shall mean 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 shall mean organic or non-organic waste materials. The term shall include, for example but not by way of limitation, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust, automobile parts, abandoned vehicles, non-operable vehicles, refrigerators, stoves.

Supplied shall mean paid for, furnished, or provided by, or under the control of, the owner or operator.

Temporary housing shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.

Unfit for human habitation shall mean that conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this article.

Words having certain meaning. Whenever the words "dwelling, dwelling unit, rooming houses, rooming unit, premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof".

4-52 Minimum standards of fitness for dwellings and dwelling units

- A. 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 for human habitation and all of the requirements of sections 4-53 through 4-58 herein.
- B. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit, which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 4-53 through 4-58 herein.

4-53 Minimum standards for structural condition

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

- A. Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.
- B. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- C. Foundations, foundation walls, piers or other foundation supports.
- D. Steps, stairs, landings, porches, railings or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
- E. Adequate facilities for egress in case of fire or panic shall be provided.
- F. Interior walls and ceilings of all rooms, closets, and hallways shall be finished with suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- G. The roof, flashings, guttering, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to weather and watertight.

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- H. 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.
- I. There shall be no use of the ground for floors, or wood floors on the ground.
- J. Insulation shall be installed in the attic or space immediately above each habitable room. Such insulation shall have a minimum R-19 value.

4-54 Minimum standards for basic plumbing, heating and electrical equipment and facilities

A. Plumbing System

1. Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.
2. Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied to a potable water supply.
3. All plumbing fixtures shall meet the standards of the state plumbing code and shall be maintained in a state of good repair and in good working order.
4. All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of it. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

B. Heating System

Every dwelling and dwelling unit shall have facilities providing heat in accordance with the following:

1. Central and electric heating systems

Every central, solar or electric heating system shall be of sufficient City to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of seventy (70°) degrees Fahrenheit measured at a point three (3') feet above the floor during ordinary winter conditions.

2. Other heating facilities

Where a central, solar, or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of seventy (70°) degrees Fahrenheit measured three (3') feet above the floor during ordinary winter conditions.

C. Electrical System

1. Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the state electrical 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 such habitable room shall contain at least three floor or wall-type electric convenience receptacles.
2. Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
3. All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the state electrical code.
4. Every dwelling shall have a smoke detector connected to its electrical system. Dwellings with multiple stories shall have detectors installed on each level that has room(s) for sleeping. Such devices shall be installed to meet the N.C. Building Code requirements for smoke detectors (The Inspector may allow the use of battery-powered devices until January 1, 2000). Battery-operated smoke detectors are permissible in existing dwellings.

4-55 Minimum standards for ventilation

A. General

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 (10%) percent of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light-obstructing structures are located less than five (5') feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room the total window area of such skylight shall equal at least fifteen (15%) percent of the total floor area of such room.

B. Habitable rooms

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

C. Bathroom and water closet rooms

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

4-56 Minimum standards for space, use and location

A. Room sizes

Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state residential building code. In no case shall any dwelling occupancy exceed one (1) person for each one-hundred fifty (150ft²) square feet for the first nine-hundred (900ft²) square feet and one (1) person for each two-hundred (200ft²) square feet of gross building area over nine-hundred (900ft²) square feet. Gross

building area is measured from the exterior walls of the dwelling. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70ft²) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50ft²) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35ft²) square feet of floor area for each occupant under twelve (12) years of age.

B. Ceiling height

At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches (7' 6").

C. Floor area calculation

Floor area shall be calculated based on habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten (10%) percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four feet and six inches (4' 6") shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

D. Cellar

No cellar shall be used for living purposes.

E. Basements

No basement 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 habitable rooms;
3. The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or access-way.

4-57 Minimum standards for safe and sanitary maintenance

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; and

shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or 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 would 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 outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in good sound condition and good repair.

E. Bathroom floors

Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

F. Supplied facilities

Every supplied facility, piece of equipment or utility which is required under this article 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 in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

H. Noxious weeds

Every yard and all exterior property areas shall be kept free of species of weeds or plant growth, which are noxious or detrimental to health.

I. Egress

Every dwelling unit shall be provided with adequate means of egress as required by the state residential building code.

4-58 Minimum standards for control of insects, rodents, and infestation

A. Screens

In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation shall likewise be equipped with screens. If a central HVAC system is provided, then screens and storm doors are not required.

B. Rodent control

When danger of infestation is apparent to the Building Inspector, 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 equipped with screens or such other approved device as will effectively prevent their entrance.

C. Infestation

Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination shall be the responsibility of the owner. 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 and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by the 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 and every dwelling unit 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 approved outside garbage can as required by the City of Mount Airy ordinances.

4-59 Minimum standards applicable to rooming houses; exceptions

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

A. Water closet, hand lavatory and bath facilities

At least one (1) 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 (4) rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one 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.

B. Minimum floor area for sleeping purposes

Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70ft²) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50ft²) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35ft²) square feet of floor area for each occupant under twelve (12) years of age.

C. 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. He shall be further responsible for the sanitary maintenance of the entire

premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

D. Sanitary facilities

Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (A) above shall be located within the rooming house and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from the habitable rooms, are accessible from a common hall and are accessible without going outside the rooming house or through any other room therein.

4-60 Responsibility of owners and occupants

A. Public areas

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

B. Cleanliness

Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof, which he occupies, and controls.

C. Rubbish and garbage

Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

D. Supplied plumbing fixtures

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

E. Care of facilities, equipment and structure

No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

(Note: The respective responsibilities of landlords and tenants under rental agreements for dwelling units are further enumerated in State Law, NCGS Chapter 42, Article 5.)

4-61 Community appearance standards

The purpose of these standards is to promote the general welfare by enhancing shared aesthetic values and general visual appearance of the community. These standards also help maintain attractive residential neighborhoods and other areas of the community through the prevention of discordant, unsightly and other objectionable surroundings that offend sensibilities and debase the visual features of the community and neighborhoods. These standards also produce corollary benefits by protecting property values, enhancing a sense of general well-being, promoting tourism revenues, protecting health and safety, preserving the character and integrity of older neighborhoods and the community as a whole, and promoting the comfort, happiness, emotional stability and societal harmony of residents and citizens.

4-62 Minimum standards of maintenance and cleanliness for residential property

- A. The owner and/or occupant of any dwelling unit shall exercise reasonable diligence at all times to keep exterior premises clean of glass, bottles, waste paper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials intentionally or unintentionally scattered, discarded, thrown, or haphazardly left on such premises, and to prevent same from drifting or blowing to adjoining premises by removing such waste or ensuring that same is placed in approved garbage or refuse containers for collection by the City.
- B. Storage of junk or other items on residential lots so as to create a littered condition shall not be permitted, except in conformity with the standards for storage in this section.

4-63 Minimum standards for storage on residential property

- A. The primary use of the property shall remain residential and not storage.
- B. No junk or other deteriorated items shall be stored in building openings of residential dwelling units, unless such openings are completely screened from such public view with clean covers or other material kept in good repair.

- C. Reserved.
- D. Firewood shall not be stored in the front yards of lots containing dwelling units. Storage of firewood shall be permitted only in the rear yard and, if not visible from a public road, the side yard, provided such storage shall not exceed one-hundred (100ft²) square feet in area nor six (6') feet in height. Such storage shall be centralized in one (1) location except for small quantities of less than ten (10ft²) square feet required for immediate use.
- E. All other items continuously stored in outside yards of lots containing residential dwelling units for a period exceeding thirty (30) days, excluding automobiles, bicycles, children play apparatus, yard maintenance equipment, and other functional-type or decorative-type outdoor items, shall be primarily stored within one centralized area in the rear yard only. Such area shall not exceed four-hundred (400ft²) square feet in total size. The area shall be screened from public view from any abutting residential lot or public street by landscaping, a solid fence, or other method to obscure. Such stored items shall not exceed the height of said fence, landscape screen or obscurity, and in no case shall be greater than six (6') feet (in height) above the ground. Where not all items are primarily stored in a centralized location, the total area of all stored items, including the centralized storage area shall not exceed four-hundred (400ft²) square feet.

4-64 Minimum standards for posting numbers on structures

The following code is adopted to further health, safety, and welfare of the citizens of Mount Airy by affording EMS, Police, Fire and other entities with visible numbers to assist in provision of services.

A. Time constraints

Existing structures shall be posted within sixty (60) days after notification of the assignment or change of structure number. Structures under construction at the time of assignment shall be posted within ninety (90) days after notification and assignment of numbers. All assigned numbers shall be posted in compliance with the provisions herein. It shall be the responsibility of the owner of any structure to obtain and post structure numbers in accordance with the provisions of this section.

B. Specifications for numbers

All structure numbers shall be constructed of a durable material and shall contrast in color with the color scheme of such structure. Numbers mounted on glass shall contrast with the background and be clearly visible.

Residential structure or unit numbers shall be a minimum size of four (4") inches in height. All structure numbers other than residential shall be a minimum of four (4") inches in height. A number larger than the minimum may be required in areas where the minimum size provides inadequate identification.

C. Posting locations

All numerical identifications must be clearly visible and easily identifiable without obstruction of view.

Dwellings or businesses located more than one-hundred (100') feet from the roadway and/or not visible shall be required to post reflective numbers at the entrance and driveway and shall be located in close proximity to the front door of the entranceway.

Posting height shall be a minimum of five (5') feet when attached to a dwelling in close proximity to the entranceway.

The height of the post shall be three (3') feet for all entrances of private drives requiring numerical posting detached from the dwelling or structure. A mailbox placed at the entranceway may also be accepted if placed at the entranceway to the property.

D. Maintenance of structure numbers

All posted numbers assigned shall be maintained at all times in compliance with the provisions of this article. Structure numbers and unit designators viewed from the roadway shall not be obstructed from view.

E. Assignment of structure numbers

Structure numbers, both private and business, shall be assigned by the City through the Planning Department.

4-65 Minimum standards for landscaping and fencing

- A. All landscape features and elements, including grass and shrubs, shall be maintained in a safe and attractive manner. Trees or shrubs that interfere with travel on public sidewalks or streets or obstruct the sight distance requirements at driveways or street corners shall be kept trimmed to prevent such interference. Landscaping and fencing will be enforced by Landscaping and Cemetery Division of Parks and Recreation.
- B. All fences, retaining walls or similar landscape features shall be firmly anchored to the ground and maintained in good structural condition and appearance. Wooden or other features subject to deterioration or weathering shall be properly maintained to retard deterioration and provide protection from the weather. Deteriorated features shall be replaced or repaired, or if not otherwise required by this Code, may be completely removed.

4-66 Other standards for residential property

- A. Parking areas may be used only for parking in relation to the principal use of the lot and not for any type of loading, sales, repair work, dismantling or servicing.
- B. Parking in residential areas shall be limited to driveways. Parking areas are permitted only to the side and rear of buildings. Parking areas shall not be allowed in the front yard. Existing multifamily developments with four or more units are exempted from this limitation.
- C. Boats and trailers shall not be parked or stored in the front yards of dwelling units.
- D. Signs shall not be painted directly onto exterior walls of residential structures.
- E. Furniture used on porches and outside in yard areas shall be constructed of materials suitable and designed for outdoor use. Upholstered furniture designed and constructed for indoor use shall not be permitted in outside yards or on porches.

4-67 Powers and Duties of Inspector

The Inspector is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. The Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effect the purpose and provisions of this article. The Inspector or designee shall have the following powers and duties:

- A. To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the City of Mount Airy, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this article with respect to the repair, closing or demolition of such dwellings and dwelling units.
- B. Housing inspections will be on a request and/or complaint basis.
- C. To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated.
- D. To keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed.
- E. To administer oaths and affirmations, examine witnesses and receive evidence.
- F. To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with section 4-65 above and state law, and shall be made in such manner as cause the least possible inconvenience to the persons in possession.
- G. To appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this article, and to delegate any of his functions and powers to such officers, agents and employees.
- H. To perform such other duties as may be prescribed herein or by the governing body of the City of Mount Airy.

4-68 Inspections; duty of owners and occupants

- A. For the purpose of making inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all

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dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house or rooming unit or the person in charge thereof shall give the Inspector free access to such dwelling and its premises at all reasonable times for the purpose of such inspection, examination and survey.

- B.** Every occupant of a dwelling, dwelling unit, rooming house, or rooming 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 article or with any lawful order issued pursuant to the provisions of this article.

(Note: When permission to inspect a dwelling or its premises is denied, the Inspector must obtain a warrant to inspect. NCGS 15-27.2 provides for the issuance of warrants for the conduct of inspections authorized by law. The N.C. Court of Appeals, in *In Re Dwelling*, 24 N.C. App. 17 (1974), has held that the consent of the tenant-occupant who was in actual possession and control of the premises was sufficient to authorize an inspection without a warrant, notwithstanding the fact that the owner had objected to the warrantless search. When faced with a situation where permission to inspect is denied, inspectors are advised to seek the advice of the City Attorney.)

4-69 Procedure for enforcement

A. Preliminary investigation; notice; hearing

Whenever a petition is filed with the Inspector by a Public Authority or by at least five (5) residents of the City charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection that any dwelling or dwelling unit is unfit for human habitation he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner or any parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party 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. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence. Formal rules of evidence shall not be controlling in hearings before the Inspector.

B. Procedure after hearing

After such notice and hearing, the Inspector shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation, and if so, whether it is deteriorated or dilapidated.

If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

If the Inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article, or else to vacate and remove or demolish the same within a specified period of time not to exceed ninety (90) days.

C. Failure to comply with order

Violation of any provision of the code shall subject the offender to a civil penalty as specifically set out in the section 1-6 of this Code.

1. In personam remedy

If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to

comply with an order of the Inspector to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Inspector shall submit to the Board of Commissioners at its next regular meeting a resolution directing the City Attorney to petition the Superior Court for an order directing such owner to comply with the order of the Inspector, as authorized by NCGS 160D-305;1208 ~~160A-446(g)~~.

2. In rem remedy

After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding subsection (1), the Inspector shall submit to the governing body of the City of Mount Airy an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on such dwelling as provided by NCGS 160D-1203 ~~160A-443~~ and section 4-65 herein.

D. Appeals from order of inspector

An appeal from any decision or any appeal from the Inspector shall be taken within ten (10) days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Zoning Board of Adjustment a notice of appeal, which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the 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 which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to NCGS 160D-305;1208 ~~160A-446(f)~~ and subsection (E) below.

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

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

E. Petition to superior court by owner

Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall have the right, within thirty (30) days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by NCGS 160D-305; 1208 ~~160A-446(f)~~.

4-70 Methods of service of complaints and orders

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered mail. If the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same at least once no later than the time at which

personal service would be required under the provisions of this article in a newspaper having general circulation in the City of Mount Airy. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

4-71 In rem action by Inspector; placarding

After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this article, and upon adoption by the Board of Commissioners of the City of Mount Airy of an ordinance authorizing and directing him to do so, as provided by NCGS 160D-1203 ~~160A-443(5)~~ and subsection 4-66(C) herein, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board of Commissioners, and shall cause to be posted on the main entrance of such dwelling or dwelling unit 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 misdemeanor.

Each ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by NCGS 160D-1203 ~~160A-443(5)~~.

4-72 Costs, a lien on premises

As provided by NCGS 160D-1203 ~~160A-446(6)~~, the cost of any repairs, alterations, or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to section 4-67 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, having priority, and be collected in the same manner as the lien for special assessments established by ~~Article 10,~~ Chapter 160DA of the General Statutes.

4-73 Alternative remedies

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the City of Mount Airy to define and declare

nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by NCGS 14-4 and section 4-71 above, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

4-74 Zoning Board of Adjustment to hear appeals

All appeals, which may be taken from decisions or orders of the Inspector pursuant to subsection 4-66(D), shall be heard and determined by the Zoning Board of Adjustment. As the appeals body the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by subsection 4-66(D) and shall keep an accurate journal of all its proceedings.

If the Zoning Board of Adjustment consists of more than five (5) members, the Chairman shall designate five (5) members to hear appeals under this article.

4-75 Conflict with other provisions

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

4-76 Violations; penalty

- A. 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 fail to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.
- B. 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 4-66, 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. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

- C. The violation of any provision of this article shall constitute a misdemeanor, as provided by NCGS 14-4.
- D. In addition to the penalty established by subsection (C) above, and the remedies provided by other provisions of this article, this article may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

4-77 Inspections of unsafe buildings

At any time where the City of Mount Airy Codes Inspector has obtained certification to act as a building inspector, the following codes shall be enforced to further protect the health, safety, and welfare of the citizens of Mount Airy by allowing the building inspector to placard unsafe buildings.

A. Periodic inspections

The inspection department shall make periodic inspections, subject to the council's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in structures within its territorial jurisdiction. In addition, it shall make inspections when it has reason to believe that such conditions may exist in a particular structure. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials.

B. Defects in buildings to be corrected

When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he owns.

C. Unsafe buildings condemned

1. Residential building

Every building which shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building.

2. Nonresidential building or structure

An inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

- a. It appears to the inspector to be vacant or abandoned.
- b. It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities, which would constitute a public nuisance.

If an inspector declares a nonresidential building or structure to be unsafe, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this subsection, the term "community development target area" means an area that has characteristics of a development zone under NCGS 105-129.3A, a "nonresidential development area" under NCGS 160A-503(10), or an area with similar characteristics designated by the City council as being in special need of revitalization for the benefit and welfare of its citizens.

D. Removing notice from condemned building

If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any municipality and that states the dangerous character of the building or structure, he shall be guilty of a Class 1 misdemeanor.

E. Action in event of failure to take corrective action

If the owner of a building or structure that has been condemned as unsafe pursuant to NCGS 160D-1117 ~~160A-426~~ shall fail to take prompt corrective action, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service,

1. That the building or structure is in a condition that appears to meet one (1) or more of the following conditions:
 1. Constitutes a fire or safety hazard.
 - b. Is dangerous to life, health, or other property.
 - c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
 - d. Has a tendency to attract person's intent on criminal activities or other activities, which would constitute a public nuisance.
2. That a hearing will be held before the inspector at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
3. That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice 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 (10) days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the City at least once not later than one (1) week prior to the hearing.

F. Order to take corrective action

If, upon a hearing held pursuant to the notice prescribed in NCGS 160D-1119 ~~160A-428~~, the inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, he shall make an order in

writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less than sixty (60) days, as the inspector may prescribe; provided, that where the inspector finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

G. Appeal; finality of order if not appealed

Any owner who has received an order under NCGS 160D-1119 ~~160A-429~~ may appeal from the order to the City council by giving notice of appeal in writing to the inspector and to the City clerk within ten (10) days following issuance of the order. In the absence of an appeal, the order of the inspector shall be final. The City council shall hear and render a decision in an appeal within a reasonable time. The City council may affirm, modify and affirm, or revoke the order.

H. Failure to comply with order

If the owner of a building or structure fails to comply with an order issued pursuant to NCGS 160D-1119 ~~160A-429~~ from which no appeal has been taken, or fails to comply with an order of the City council following an appeal, he shall be guilty of a Class 1 misdemeanor.

I. Civil and equitable enforcement

1. Civil enforcement

Whenever any violation is denominated a misdemeanor under the provisions of this part, the City, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

2. Equitable enforcement

In the case of a nonresidential building or structure declared unsafe under NCGS 160D-1119 ~~160A-426(b)~~, a City may, in lieu of taking action under subsection (A), cause the building or structure to be removed or demolished. The amounts incurred by the City in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same

manner as liens for special assessments provided in article II of this chapter. If the building or structure is removed or demolished by the City, the City shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The City shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

3. Power of City to define and declare nuisances

Nothing in this section shall be construed to impair or limit the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

J. Records and reports

The inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and re-inspections made, defects found, certificates of compliance granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the North Carolina Department of Cultural Resources. Periodic reports shall be submitted to the City council and to the Commissioner of Insurance, as they shall by ordinance, rule, or regulation require.

K. Appeals in general

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the state building code or other state building laws shall be taken to the Commissioner of Insurance or his designee or other official specified in NCGS 143-139, by filing a written notice with him and with the inspection department within a period of ten (10) days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

4-78, 4-79 Reserved