

## **CHAPTER 152: MINIMUM HOUSING CODE**

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## **GENERAL PROVISIONS**

### **152.01 LEGISLATIVE FINDINGS.**

The Town Council hereby finds and declares that there exists in the town housing which is unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities and other conditions rendering such housing unsafe or unsanitary or dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents of the town and that a public necessity exists to exercise the police powers of the town pursuant to G.S. Article 19, Chapter 160A, as now or hereafter amended, to cause the repair and rehabilitation, closing or demolishing of such housing in the manner herein provided. *(Ord. passed 8-11-97)*

### **152.02 DEFINITIONS.**

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

**ADMINISTRATOR.** Such person as shall from time to time be designated by the Town Manager as the Minimum Housing Enforcement Officer, or his designee.

**AGENT.** Any person, firm or corporation who is responsible for the management, maintenance, operation, renting, leasing or sale of any property, or who makes application for or seeks a permit or certificate on behalf of the owner of any property or who in any other way represents the owner of the property in any particular case.

**ALLEY.** A public vehicular or pedestrian way which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

**AREAWAY.** Any subsurface space adjacent to a building for affording access to or for lighting or ventilating the basement or a cellar of such building.

**ATTIC.** Story means any story situated wholly or partly in the roof, so designated, arranged or built as to be used for storage or habitation. If an attic which is accessible by a fixed stairway has a seven foot clear height for greater than 50% of the width of the floor below, then the space shall be considered as a story when determining building height.

**BASEMENT.** That portion of a building which is partly or completely below grade.

**BATHROOM.** A heated enclosed space containing a lavatory, a toilet, and either a tub, a shower or a tub/shower combination.

**BOARDING or ROOMING HOUSE.** Any single family dwelling, in which rooms are rented by the owner occupant to not more than four persons who are not related by blood, adoption or marriage to the owner occupant. See also **FAMILY**.

**CEILING.** The surface suspended from or attached to the underside of floors or roofs which does not form a structural part of a floor or roof or the underside of an exposed floor or roof construction.

**CEILING.** The clear vertical distance from the floor to the finished ceiling.

**CELLAR.** The lowest space or spaces in a building located under the basement story.

**CENTRAL HEATING UNIT.** A unit controlled by a thermostat or some other device and is designed to provide heating to a dwelling or dwelling unit through a duct, wall-mounted system or baseboard-mounted equipment.

**DETERIORATED** means that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by finding of the Minimum Housing Enforcement Officer.

**DILAPIDATED** means that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards of this chapter except at a cost in excess of 50% of its value, as determined by finding of the Minimum Housing Enforcement Officer.

**DWELLING.** A building or a portion thereof which is wholly or partly-used for or intended to be used for temporary or permanent residential occupancy for one or more families.

**DWELLING UNIT.** A single independent housekeeping unit with sanitation, living, dining, sleeping, and permanently installed kitchen and bathroom facilities for use by one family.

**EXIT.** A way of departure from the interior of a building or structure to the exterior at street or grade level.

**EXTERMINATION.** The control and elimination of insects, rodents and other pests by eliminating their harborage, by removing or making inaccessible materials that serve as their food, by poisoning, spraying, fumigating, trapping or by any other recognized and lawful pest elimination method approved by the Administrator.

**FAMILY.** An individual living alone, or two or more persons related by blood, adoption, or marriage, or a group of not more than four unrelated persons living together as a single housekeeping unit in a shared dwelling unit.

**FIREPROOFING.** Protected to resist the damaging effects of fire in accordance with the requirements of this chapter for such construction.

**FLUE.** An enclosed pipe, duct or passageway used only for the transmission of heat or the products of combustion.

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

**HABITABLE SPACE** or **HABITABLE ROOM.** Any room or enclosed floor space in a building or structure used or intended for use for living, sleeping, cooking or eating, including kitchens and basements, but excluding bathrooms, half-baths, halls, corridors, pantries, storage space, closets, laundries and other spaces not used frequently or for extended periods.

**HALF-BATH.** An enclosed space containing a toilet or urinal and lavatory basin.

**HEARTH.** The brick, stone or cement area in front of a fireplace.

**HEATING UNIT.** All mechanical devices or other appliances that utilize fuel or another form of energy to produce heat.

**HOUSE** or **HOUSING.** Any dwelling, multi-family dwelling, apartment, residency hotel, rooming house, boardinghouse, bed and breakfast, inn or similar building or structure, or part thereof, containing habitable space.

**HOUSING APPEALS BOARD.** The Board of Adjustment shall serve as the governing body to hear housing complaints and appeals.

**IMPERVIOUS TO WATER** (as to floors). A clean, smooth floor, without cracks or holes, made of terrazzo, ceramic, asphalt or rubber tile, smooth concrete, linoleum or other similar material, or made of wood, and, if made of wood, then with tightly fitting joints, covered with varnish, lacquer or other similar water-resistant coating.

**INFESTATION.** The presence within or around any housing of insects, rodents, or other pests.

**KITCHEN.** An area used, or designated to be used, for the preparation of food.

**LAVATORY.** A fixed wash bowl equipped with plumbing.

**MAINTENANCE OF A BUILDING STRUCTURE, APPARATUS OR EQUIPMENT.** The way or manner in which any such building, structure, appliance, apparatus or equipment is serviced, repaired or altered to perpetuate the use or purpose for which such building, structure, appliance, apparatus or equipment was originally intended.

**MULTI-FAMILY DWELLING.** A building or structure occupied or intended for occupation as the home or residence of two or more families living independently of each other and doing their own cooking within their respective dwelling unit.

**NEW WORK.** Any work to be completed that requires a building permit.

**OWNER/OCCUPANT.** Any person, firm, corporation, lessee, receiver, trustee, guardian or personal representative holding legal title or legal right to occupy or carry on business upon any lot, or any manager, operator or other person authorized to occupy or conduct business on behalf of an owner. Where there is more than one owner as defined, their duties and obligations under this chapter are joint and severable and shall include responsibility for compliance with this chapter.

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

**PERSON.** Any individual, firm, co-partnership, corporation, company or association, and shall include any personal representative, trustee, receiver, assignee or other similar representative.

**PLUMBING.** The water supply system, the sanitary sewer system, the vent system, fixtures and traps and shall include their respective connections, devices, appliances and nonessential components within the property lines of the premises.

**PORTABLE HEATING UNIT.** An unvented air heating appliance which is designed for environmental heating and is not secured or attached to a building by any means other than an electrical cord.

**PREMISES.** A lot or group of lots including any building or group of buildings or other structures or parts thereof, which may be situated thereon and considered as a unit devoted to a certain use or occupancy, including the necessary and customary accessory buildings and other open spaces required or used in connection with such use of a lot or group of lots.

**PUBLIC AREA.** That space within any housing which is open to use or access by the general public.

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

**REMOVAL.** The demolition and removal of the entire structure, leaving the property free and clear of debris and without holes or pockets which may retain water.

**RESIDENCY HOTEL.** A building or group of buildings containing 10 or more guest rooms for transient or permanent residents. Occupancy shall not exceed two people per guest room. Registration facilities, 24 hour on site management and housekeeping services shall be provided. This definition does not include hotels, motels or other places of lodging that are inspected by the County Health Department.

**ROOFING.** The shingles, tiles, composition, sheet metal covering or other waterproof protection on top of a roof.

**RUBBISH.** Combustible and noncombustible waste materials, except garbage, and the word shall include, but not be limited to, the residue from the burning of wood, coal, coke and other rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

**SPACE HEATING UNIT.** A permanently installed unit which utilizes fuel or another form of energy and is designed to provide continuous heat to a dwelling or part of a dwelling.

**STORY.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that habitable portion of a building included between the upper surface of the top-most floor and ceiling or roof above.

**STORY ABOVE GRADE** (see **ATTIC STORY**). Any story having its finished floor surface entirely above grade except that a basement shall be considered as a story above grade when the finished surface of the floor above the basement is:

- (1) More than 6 feet (1829 mm) above grade plane;
- (2) More than 6 feet (1829 mm) above the finished ground level for more than 50% of the total building perimeter; or
- (3) More than 12 feet (3648 mm) above the finished ground level at any point.

**STRUCTURE.** Anything constructed or erected on the ground or attached to the ground including, but not limited to, the following: Walls, fences, buildings, signs, swimming pools, gas or liquid storage tanks, towers and other similar items. For the purpose of the flood zone management, structure shall mean a walled and roofed building that is principally above ground, as well as a mobile home.

**SUBSTANTIAL.** Firmly constructed, sturdy, safe, sound, solid, or stout in a manner to adequately perform its original purpose.

**TENANT.** A person, co-partnership, firm or corporation occupying or using a building, premises or any part or parts thereof owned by another.

**UNFIT FOR HUMAN HABITATION** means 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 chapter.

**VENTILATION.** The adequate supply and removal of air to and from a space through windows, skylights, doors, louvers, grilles, ducts or other similar devices.

**WATER HEATING UNIT.** An appliance listed by a testing laboratory which is capable of heating water to a temperature between 120 and 140 degrees Fahrenheit to all appropriate plumbing fixtures within a dwelling unit.

**WEATHERTIGHT.** So constructed that the structure resists weather and excludes rain and snow, and prevents the infiltration of air. (Ord. passed 8-11-97)

### **152.03 ADMINISTRATOR; DUTIES AND POWERS.**

- (A) (1) *Exercise of powers and duties by Administrator.* The Administrator is designated and appointed to exercise the powers and perform the duties described by this chapter.
- (2) *Conditions resulting in housing unfit for human habitation.* The Administrator may determine that housing is unfit for human habitation if he finds that sufficient conditions exist in such housing which are dangerous or injurious to the health or safety of the occupants of such housing, the occupants of neighboring housing, the occupants of neighboring housing or other residents of the town. Such conditions may include the following, without limiting the generality of the foregoing: Defects therein increasing the hazards of fire, accident, or other calamities, lack of adequate ventilation, light or sanitary facilities; dilapidation, disrepair, structural defects, uncleanliness; or any violation described in this chapter.
- (B) The Minimum Housing Enforcement Officer is hereby designated as the Administrator empowered to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. It shall be the duty of the Administrator:
- (1) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the town, 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 chapter with respect to such dwellings or dwelling units;
  - (2) 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;
  - (3) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and
  - (4) To perform such other duties as may be herein prescribed.
- (C) *Powers of the Administrator.* The Administrator is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others herein granted;
- (1) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;
  - (2) To administer oaths and affirmations, examine witnesses and receive evidence;

- (3) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and
- (4) To appoint and fix duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter. *(Ord. passed 8-11-97)*

#### **152.04 RESPONSIBILITIES OF OWNERS AND OCCUPANTS; DUTIES DURING INSPECTION.**

(A) Owners and occupants are responsible for the following:

- (1) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition, the shared or public areas of the dwelling and the premises thereof.
- (2) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling or dwelling unit and the premises thereof which he occupies or controls.
- (3) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all their 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.
- (4) *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 uses and operation of same.
- (5) *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.

(B) Owners and occupants have the following duties during an inspection.

- (1) *Rights of Building Inspector.* For the purpose of making inspections, the Administrator or his designee is hereby authorized to enter, examine and survey at all reasonable times, all dwellings, dwelling units, rooming units and premises.
- (2) *Free Access.* The owner or occupant of every dwelling, dwelling unit, rooming unit or the person in charge thereof, shall give the Administrator or his designee free access to such dwelling, dwelling unit, rooming unit and its premises at all reasonable times for the purpose 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 ordinances.

*(Ord. passed 8-11-97)*

#### **152.05 CONFLICT WITH OTHER PROVISIONS.**

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

*(Ord. passed 8-11-97)*

#### **152.06 SCOPE AND APPLICATION.**

The provisions of this chapter shall apply to all housing in the Town of Plymouth and its Extraterritorial Planning and Zoning Jurisdiction irrespective of when such building was constructed, altered or repaired. Portable, mobile or demountable buildings or structures, including manufactured homes, mobile homes, and trailers, when used or intended for use for housing within the Town's jurisdiction shall be subject to the applicable provisions of this chapter. Unless otherwise stated in this chapter, the use of the word *Town* in this chapter shall also include the Extraterritorial Planning and Jurisdiction, as set forth in the zoning ordinance.

#### **152.07 STATE LAW ADOPTED BY REFERENCE.**

Part 6 of Article 19 of G.S. 160A, entitled *Minimum Housing Standards* is hereby adopted in its entirety as if every word were printed herein verbatim.

*(Ord. passed 8-11-97)*

### ***MINIMUM STANDARDS***

#### **152.15 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 the minimum standards of fitness for human habitation and all of the requirements of 152.16 through 152.2
- (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 152.16 through 152.21.
- (C) Prior to sale or within six months of the sale, any existing residential structure containing one or more units, the Town Manager or his/her designee shall be requested

*(Ord. passed 8-11-97)*

to issue a Certificate of Continued Occupancy. The application for such permit shall be made by the owner and/or the purchaser and shall comply with such administrative provisions as required by the Town Manager or his/her designee. The Certificate of Continued Occupancy shall be proof that the structure in question complies with the applicable town ordinances, codes, regulations, and policies of the town and that is in compliance with the land use regulations of the town or is considered a legal nonconforming use. If the applicant applies for a Certificate of Continued Occupancy the owner or buyer shall have 45 business days to bring the property into compliance. The owner or buyer shall be issued a temporary Certificate of Continued Occupancy until the completion of the work.

- (D) Prior to the occupancy of any existing residential unit in an existing structure containing one or more units, the Town Manager or his/her designee shall issue a Certificate of Continued Occupancy. The application of such permit shall be made by the owner and/or purchaser and shall comply with such administrative provisions as required by the Town Manager or his/her designee. The Certificate of Continued Occupancy shall be proof that the unit in question complies with applicable town ordinances, codes, regulations, and policies of the town and that it is in compliance with the land use regulations of the town or is considered a legal nonconforming use. If the applicant applies for a Certificate of Continued Occupancy the owner or buyer shall have 45 business day to bring the property into compliance. The owner or buyer shall be issued a temporary Certificate of Continued Occupancy until the completion of work.

#### **152.16 STRUCTURAL CONDITIONS.**

- (A) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, 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 their foundation supports shall not be deteriorated or damaged.
- (D) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
- (E) Adequate facilities for egress in case of fire or panic shall be provided.
- (F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials which will, by use of reasonable household methods, promote sanitation and cleanliness and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- (G) The roof, flashings, exterior walls, basement walls, floors and all doors and windows

exposed to the weather shall be constructed and maintained so as to be weathertight and watertight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such 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.

*(Ord. passed 8-11-97)*

#### **152.17 BASIC EQUIPMENT AND FACILITIES.**

(A) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewer disposal.

(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 system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the North Carolina Plumbing Code and shall be maintained in a state of good repair and good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. 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 for providing heat in accordance with either (1) or (2) below:

(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 is connected a minimum temperature of 70° F. measured at a point three feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where central or electric heating systems are not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 70° F. measured at a point three 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 North Carolina Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall type electric fixture for lighting. In the event wall or ceiling light fixtures are not provided in any habitable room, then 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 have adequate lighting by electric lights at all times when natural lighting 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 North Carolina Electrical Code (Volume IV of the North Carolina Building Code).

*(Ord. passed 8-11-97)*

### **152.18 VENTILATION.**

- (A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The total minimum window area, measured between stops, for every habitable room shall be 10% 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 feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.
- (B) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable 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 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. *(Ord. passed 8-11-97)*

## 152.19 SPACE, USE AND LOCATION.

(A) *Room sizes.*

- (1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the North Carolina Building Code (Volume I-B of the North Carolina Building Code).
- (2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.
- (3) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4½ feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

(D) 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; and
- (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. *(Ord. passed 8-11-97)*

## 152.20 SAFE AND SANITARY MAINTENANCE.

- (A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior roof shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; and shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or weather.
- (B) *Interior floors, walls and ceiling.* 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 weathertight, 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 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 a clean and sanitary condition.
- (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 through drainage and so as 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 (Volume I-B of the State Building Code.)

(Ord. passed 8-11-97)

## **152.21 CONTROL OF INSECTS, RODENTS AND INFESTATIONS.**

- (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 have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed.
- (B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.
- (C) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably 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 Town, and the owner, operator or agent in control of such dwelling unit shall be responsible for the removal of rubbish.
- (E) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, to be approved by the occupants of each dwelling unit, or an approved outside garbage can as required by the town.  
(Ord. passed 8-11-97)

## **152.22 ROOMING HOUSES.**

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

- (A) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower, property connected to an approved water system and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) 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 occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 feet of floor area for each occupant 12 years of age or older and at least 35 square feet of floor area for each occupant under 12 years of age.
- (C) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (A) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from habitable rooms, which are accessible from a common hall and without going outside the rooming house or through any other room therein.
- (D) *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 further be 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.

*(Ord. passed 8-11-97)*

## ***ENFORCEMENT***

### **152.30 PROCEDURE FOR ENFORCEMENT.**

- (A) *Preliminary investigation; placarding; notice; hearing.*
  - (1) Whenever a petition is filed with the Administrator by a public authority or by at least five residents of the town 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, 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.*
  - (2) The Administrator will further issue and cause to serve upon the owner or the 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 Administrator at a place therein fixed, not less than 10 nor more than 30 days after serving of said 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 person signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Administrator.

(B) *Procedure after hearing.*

- (1) After such notice and hearing, the Administrator shall state in writing his determination whether such dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.
- (2) If the Administrator 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 to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 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.
- (3) If the Administrator determines that the dwelling is dilapidated, he shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such dwelling or dwelling unit to comply with minimum standards of fitness established by this chapter, or else vacate and remove or demolish the same within a specified period of time not to exceed 90 days. *(Ord. passed 8-11-97)*

**152.31 FAILURE TO COMPLY WITH ORDER.**

- (A) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Administrator to repair, alter or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Administrator to vacate or close, and remove or demolish the same within the time specified therein, the Administrator shall submit to the Town Council at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Administrator, as authorized by G.S. 160A-446(g).
- (B) *In rem remedy.* After failure of an owner of a deteriorated dwelling unit, or of a dilapidated dwelling, to comply with an order of the Administrator within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding division (A), the Administrator shall submit to the Town Council an ordinance ordering the Administrator to cause such dwelling or dwelling unit to be repaired, altered or improved, or vacated and closed and removed or demolished as provided in the original order of the Administrator.

### **152.32 APPEALS FROM ORDERS OF THE ADMINISTRATOR.**

- (A) An appeal from any decision or order of the Administrator may be taken by any person aggrieved thereby. Any appeal from the Administrator shall be taken within 10 days from the rendering of the decision or service of the order, and shall be taken by filing with the Administrator and with the Housing Appeals Board a notice of appeal which shall specify the grounds upon which the appeal is based.
- (B) Upon the filing of any notice of appeal, the Administrator shall forthwith transmit to the Board, all the papers constituting the record upon which the decision appealed from was made. When the appeal is from a decision of the Administrator refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Administrator 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 Administrator 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 by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Administrator, by the Board, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and division (A) of this section.
- (C) The Board shall fix a reasonable time for the hearing of all appeals, shall give 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 Administrator, but a concurring vote of four-fifths of the Board shall be necessary to reverse or modify any decision or order of the Administrator. 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.
- (D) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.
- (E) *Housing Board of Appeals to hear appeals.* All appeals which may be taken from decisions or orders of the Administrator pursuant to 152.30(D)(1) shall be heard and determined by the Housing Appeals Board. The Zoning Board of Adjustment as provided for under Article 10 of the Zoning Ordinance shall serve as the Housing Appeals Board. The Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedures 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 G.S. 160A-388, Board of Adjustment, and shall keep an accurate journal of all its proceedings. *(Ord. passed 8-11-97)*

### **152.33 PETITION TO SUPERVISOR COURT BY OWNER.**

Any person aggrieved by an order issued by the Administrator or a decision rendered by the Board shall have the right within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the Administrator pending a final disposition of the cause, as provided by G.S. 160A-446(f). *(Ord. passed 8-11-97)*

### **152.34 SERVICE OF COMPLAINTS AND ORDERS.**

(A) Complaints or orders issued by the Administrator shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Administrator in the exercise of reasonable diligence, the Administrator shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing same once each week for two successive weeks in a newspaper printed and published and circulating in the town.

(B) Where service is made by such publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order. *(Ord. passed 8-11-97)*

### **152.35 IN REM ACTION BY THE ADMINISTRATOR.**

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Administrator issued pursuant to the provisions of this chapter, and upon adoption by the Town Council of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443 (5) and 152.31, the Administrator 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 chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council.

(B) Pursuant to activities of 152.30, 152.34 and 152.35, each such ordinance shall be recorded in the office of the Register of Deeds of Washington County, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5). *(Ord. passed 8-11-97)*

### **152.36 COSTS AS LIEN ON PREMISES.**

(A) As provided by G.S. 160A-443(6), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Administrator pursuant to 152.19 shall be a lien against the real property upon which such costs were incurred.

- (B) Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Article 10, Chapter 160A. *(Ord. passed 8-11-97)*

### **152.37 ALTERNATIVE REMEDIES.**

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. 14-4 and 152.05, and the enforcement of any remedy provided herein or in other ordinances or laws.

*(Ord. passed 8-11-97)*

### **152.99 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 vacate and close and remove or demolish the same, upon order of the Administrator 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 constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to 152.30(C)(1) and (2), to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration, improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (B) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by G.S. 14-4. *(Ord. passed 8-11-97)*

