



## **CITY COUNCIL WORK SESSION**

**City Council Chambers**

**Tuesday, June 07, 2022 at 3:00 PM**

---

### **AGENDA**

#### **Call to Order**

#### **Department Head Reports**

#### **Discussion Items**

- [1.](#) Code of Ordinance - Chapter 93: Animals
- [2.](#) Code of Ordinance - Chapter 150: Building & Minimum Housing Regulations
- [3.](#) Potential Ordinances - Camping & Mobile Vendor

#### **City Manager's Report**

- [4.](#) **Budget Amendment**

#### **Council General Discussion**

#### **Adjourn**

*Individuals requiring special accommodations at this public meeting should contact ADA Coordinator, Hydeia Hayes, at (704) 729-6509 or Countrywide at (704) 866-3300 or State Relay Service at 1-800-375-8662.*

## CHAPTER 93: ANIMALS

- 93.01 Purpose
- 93.02 Definitions
- 93.03 Adoption of County Animal Ordinance
- 93.04 Administration and Enforcement
- 93.05 City constitutes bird sanctuary
- 93.06 Possession or harboring of wild or exotic animals
- 93.07 Livestock, chickens, or other domestic fowl
- 93.08 Dogs and cats
- 93.09 Animals at street fairs, festivals and parades
- 93.10 Animals prohibited to be at large
- 93.11 Maintenance of stables, pens, coops, and the like; abatement of nuisances
- 93.12 Existing animals
- 93.13 Service Animals
- 93.14 Notice of violation
- 93.99 Penalty

### § 93.01 PURPOSE.

Pursuant to the authority granted by the North Carolina General Assembly, this animal control chapter is enacted to regulate, restrict, or prohibit, if necessary, animals; to protect the public from unvaccinated, diseased, stray, roaming, dangerous, or wild animals; to make unlawful acts of animals that interfere with the enjoyment of property or the peace and safety of the community, and to carry out any other lawful duties authorized by state laws and applicable ordinances.

(Ord. passed 5-11-09; Am. Ord. passed 3-10-14)

Statutory reference:

Authority to regulate, restrict domestic animals, see G.S. § 160A-186

### § 93.02 DEFINITIONS

Unless otherwise specifically provided or unless otherwise clearly required by the context, the following words and phrases shall have the meaning indicated when used in this chapter:

- (A) Administrator. Any person designated by the manager to perform the responsibilities assigned by this chapter to the administrator.
- (B) Animal Ordinance. The ordinance entitled "Animals" as adopted by the Gaston County Board of Commissioners on February 23, 2008, updated on May 28, 2009, May 24, 2012 and November 10, 2020, and including any subsequent amendments thereto by Gaston County in the future.
- (C) Domestic animal. A domesticated or tame animal that is kept as a pet, such as cats and dogs. Livestock and wild animals shall not be regarded as domestic animals.
- (D) Domestic animal pen. An area in which domestic animals are kept which is completely enclosed by a fence on all sides and has an area of no more than 200 square feet.
- (E) Livestock. Horses, mules, cows, pigs, goats, sheep, fowl (such as ducks, guineas, peacocks, turkeys, etc.), rabbits and all other animals that typically are kept primarily for productive or useful purposes rather than as pets. By exception and for purposes of this ordinance, rabbits

kept as pets and not for productive purposes, the keeping of eight (8) or less chickens accessory to a residential use, or the having or keeping of a pig commonly referred to as the miniature Vietnamese potbellied pig (*sus scrofa vittatus*) shall not be deemed livestock.

(F) Wild Animal. Any animal which is:

- (1) Non-domesticated and normally found in the wild state, particularly those that are feral, aggressive, able to harbor or transmit disease, or dangerous, which, therefore, generally does not live in or about the habitation of humans. Because of its size or vicious propensity or because it is poisonous or for any other substantial reason, a wild animal poses a potential danger to persons, other animals or property; or,
- (2) Classified as a wild animal by the North Carolina Wildlife Resources Commission.

### **§ 93.03 ADOPTION OF COUNTY ANIMAL ORDINANCE.**

The Animals Ordinance of the Code of Ordinances of Gaston County, as adopted by the Gaston County Board of Commissioners on February 23, 2008 and updated on May 28, 2009, May 24, 2012 and November 10, 2020, is hereby adopted in its entirety as an ordinance of the City. All subsequent amendments thereto shall likewise effective and enforceable in the city. A copy of said ordinance and all amendments thereto shall be kept on file in the office of the City Clerk.

(Ord. passed 5-14-90; Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14)

### **§ 93.04 ADMINISTRATION AND ENFORCEMENT**

- (A) Delegation to County. The City hereby authorizes Gaston County's Animal Care and Enforcement to enforce the provisions of the animal control ordinance within the municipal limits of the City. The City is hereby authorized to enter into an agreement with Gaston County for the enforcement of the ordinance.
- (B) Standards within this text which are more specific than the Gaston County Animal Ordinance may be enforced by any employee of Bessemer City charged with the interpretation and /or enforcement of the Bessemer City Land Development Code and/or Code of Ordinances.

### **§ 93.05 CITY CONSTITUTES BIRD SANCTUARY.**

The entire area of this city is hereby created and established as a bird sanctuary, and it shall be unlawful for any person within the city to hunt, kill, trap, or otherwise take any protected bird or to rob the nest of any protected bird in accordance with G.S. § 160A-188.

('75 Code, § 3-6) (Ord. 6, passed 4-15-54; Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

Statutory reference:

Authority, see G.S. § 160A-188

### **§ 93.06 POSSESSION OR HARBORING OF WILD OR EXOTIC ANIMALS.**

It shall be unlawful for any person to possess or harbor within the city any wild or exotic animal dangerous to persons or property or offensive to the senses; provided, that this section shall not apply to any circus or menagerie duly licensed by the city. These wild or exotic animals include, but not are limited to, deer, lions, non-human primates, bats, wolves and wolf hybrids, hyenas, felids, as regulated by the Captive Wildlife Safety Act, bears, elephants, rhinoceros, hippopotamus, exotic wild cattle crocodilians, venomous reptiles, constrictor snakes, raccoons, and skunks.

('75 Code, § 3-1) (Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, § 93.99

Statutory reference:

For state law as to authority of City Council to enact this section, see G.S. §160A-187

**§ 93.07 LIVESTOCK, CHICKENS, OR OTHER DOMESTIC FOWL.**

- (A) It shall be unlawful for any person to keep any horse, mule, donkey, hog, swine, cow, sheep, equine animals, bovine animals, llamas, alpaca, duck, chicken, turkey, pigeon or similar domesticated fowl, or goat (or similar animals), hereinafter designated livestock within the city limits except:
- (1) The only swine permitted on any residential lot are pet pigs (not livestock) housed inside a residential structure.
  - (2) Chickens are permitted in accordance with the requirements of Subsection (C) of this section and the provisions of the City's Land Development Code.
  - (3) The provisions of this section shall not be applicable to bona fide farms.
  - (4) For uses designated as a Class I or Class II Agricultural Use and permitted in accordance with the requirements of the Bessemer City Land Development Code.
- (B) A bona fide farm is defined as a farm use that includes the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1.

(Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

**§ 93.08 DOGS AND CATS.**

- (A) It shall be unlawful for any person or occupants of any residential dwelling to keep more than four dogs, more than four cats, or any combination thereof, if such animals are routinely kept outside. An exception to this would be a kennel use, an approved Class II agricultural use, or a bona fide farm.
- (B) A kennel is an indoor or outdoor place where five (5) or more dogs or other domesticated animals are groomed, bred, boarded, trained, kept, and/or sold either as a principal use or an accessory to a residential use. A current license is required by the State Department of Agriculture to engage in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs and/or cats. The kennel requires a zoning permit, issued by the City, only permitted if meeting the requirements of the Bessemer City Land Development Code.

(Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

**§ 93.09 ANIMALS AT STREET FAIRS, FESTIVALS AND PARADES.**

- (A) Well-mannered and leashed dogs are permitted at any street fair, festival, or parade sanctioned or permitted by the city, unless otherwise posted or advertised. The dog must always remain leashed. If the dog becomes aggressive, however, the City has right to remove the animal from premises.
- (B) This prohibition shall not apply to guide dogs or other guide animals for disabled persons under the control of such person. The prohibition shall not apply to licensed or permitted kennels or to animals legitimately a part of a parade, sanctioned street fair or festival.

- (C) A sanctioned or permitted street fair, festival or parade is an event approved or permitted by the City Council of Bessemer City by resolution. The geographical limitations of the street fair, festival, or parade shall be delineated by the resolution.

(Ord. passed 4-10-17) Penalty, see § 93.99

**§ 93.10 ANIMALS PROHIBITED TO BE AT LARGE.**

- (A) It shall be unlawful for any person to allow any animal, including any horse, barnyard animal, fowl, cattle or livestock, owned or harbored by said individual, to stray from the resident premises or to run at large within the city.
- (B) Every person owning or having possession, charge, care, custody, or control of any animal shall keep such animal exclusively upon that individual's real property. However, such animal may be off the owner's real property if it is under the direct control of a person and physically restrained by a chain, leash or harness of sufficient strength and condition to effectively restrain the animal and held in the hand of said person. An animal can only be under the physical control of a person if that individual is able to effectively restrain the animal.

('75 Code, § 3-2) (Ord. TC00-2, passed 2-14-00; Am. Ord. passed 7-14-03; Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

**§ 93.11 MAINTENANCE OF STABLES, PENS, COOPS, AND THE LIKE; ABATEMENT OF NUISANCES.**

It shall be unlawful for any person to own, keep, possess, or maintain an animal in such a manner as to constitute a public nuisance to neighbors:

- (A) Each stable, pen, domestic animal pen, coop, or other place within the city where any animal or fowl is kept shall be maintained by the keeper at all times in a clean and sanitary condition and free of offensive odors and solid and liquid waste matter and does not threaten the health, safety or welfare of the public.
- (B) Animals shall not disturb the rights, threaten the safety of, or damage a member of the general public or interfere with the ordinary use and enjoyment of their property.
- (C) Animals shall not damage the property of anyone other than its owner, including but not limited to turning over garbage containers, digging or destroying gardens, or defecating upon the property of another.
- (D) The maintenance of the property shall be upkept and in good order based on the number, type, variety, density, and location of the animals on the property. All domestic animal pens and other structures shall be located behind the principal structure on the property.
- (E) Animals on any premises shall be allowed to remain only with adequate housing and protection from the elements, consisting of shelter of sufficient height and strength, constructed for the express purpose of housing animals.

Any place where an animal or fowl is kept which is found to be in violation of this section shall be deemed a public nuisance, subject to abatement by the city at the expense of the person responsible therefor or the owner of the property whereon it exists

('75 Code, § 3-4) (Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

Statutory reference:

Authority, see G.S. § 160A-182

### **§ 93.09 EXISTING ANIMALS.**

The maximum number of animals may not be legally increased as a result of an animal giving birth. Any livestock legally existing on a lot prior to January 1, 2022 that is in nonconformance with this chapter must conform to these regulations within six months.

(Ord. passed 5-11-09; Am. Ord. passed 3-10-14) Penalty, see § 93.99

### **§ 93.10 SERVICE ANIMALS.**

Service animals as defined by the Americans with Disabilities Act (ADA), Fair Housing Act and North Carolina General Statutes are exempt from the provisions of this chapter.

(Ord. passed 3-10-14)

### **§ 93.12 NOTICE OF VIOLATION**

Upon investigation and finding by a Code Enforcement Officer or an Animal Control Officer that there exists on any city property a violation of this Chapter, the Officer shall issue a notice of violation by first-class mail to the violator as well as the owner of such property if different from the violator. The notice shall state that the alleged violator or property owner shall have a period of up to ten (10) days from the date the notice was received to either correct the situation or appeal the Officer's decision to the Town Manager. The notice required by this division may also be served upon persons either personally or posted conspicuously on the offending property. Depending on the nature of the violation, the Officer may grant one or more extension of time to cure or correct said violation. When a person has failed to comply with a notice of violation as described above, the Officer shall not be required to provide further notice of violation to that person with regard to the same property before taking any of the enforcement actions authorized by § 93.99.

(Ord. passed 5-11-09; Am. Ord. passed 3-10-14)

### **§ 93.99 PENALTY.**

- (A) If compliance has not occurred within the period specified above, or if a violation of this chapter is a single, discrete event, a civil penalty in the amount of \$50 shall be issued and either delivered in person to the violator or sent by certified mail. The citation shall direct that the citation be paid to the city collections department within ten days of the date of issuance and shall inform the violator that if this amount is not paid within the allotted time, a civil action can be initiated to collect the citation.
- (B) Each day's continuing violation of any provision of this chapter shall be a separate and distinct offense resulting in a \$50 fee per day until the violation is corrected.
- (C) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.
- (D) A violation of any provision of this chapter shall be a misdemeanor as provided in G.S. § 14-4 and shall subject each such violator to the punishment provided in that section of the General Statutes.
- (E) The Enforcement Officer may enforce this chapter by any one or any combination of the foregoing remedies.

(Am. Ord. passed 5-11-09; Am. Ord. passed 3-10-14; Am. Ord. passed 4-10-17)

## CHAPTER 150: BUILDING AND MINIMUM HOUSING REGULATIONS

### Minimum Standard Housing Code

#### *General Provisions*

- 150.065 Short title
- 150.066 Exercise of police power; finding; purpose
- 150.067 Scope
- 150.068 Definitions
- 150.069 Conflict with other provisions
- 150.070 Existing buildings

#### *Requirements and Standards for Structures*

- 150.071 Maintenance of buildings
- 150.072 Utility services to substandard buildings or dwelling units
- 150.073 Issuance of permit prior to inspection of substandard buildings or dwelling units
- 150.074 Certificate of compliance
- 150.075 Minimum standards of fitness
- 150.076 Plumbing systems and equipment
- 150.077 Ventilation
- 150.078 Electrical systems
- 150.079 Heating
- 150.080 Space; use and location
- 150.081 Safe and sanitary maintenance
- 150.082 Insects, rodents, and infestations
- 150.083 Structural condition
- 150.084 Rooming house and dwelling unit minimum standards
- 150.085 Abandoned structures
- 150.086 Responsibilities of owners and occupants

#### *Administration and Enforcement*

- 150.087 Housing Inspector; duties and powers
- 150.088 Preliminary investigation; notice; hearing
- 150.089 Procedure after hearing; written order
- 150.090 Failure to comply with order
- 150.091 Abandonment of intent to repair.
- 150.092 Civil penalties; recovery of costs
- 150.093 Service of complaints and orders. Additional notices.
- 150.094 Periodic Inspections
- 150.095 Remedies; appeals from orders of Housing Inspector
- 150.096 Costs and fee schedule
- 150.097 Compensation to owners of condemned property



## MINIMUM STANDARD HOUSING CODE

### GENERAL PROVISIONS

#### § 150.065 SHORT TITLE.

This subchapter shall be known and may be cited as “The Minimum Standard Housing Code of the City of Bessemer City,” and will be hereinafter called this subchapter.

(Ord. 94-8-4, passed 8-8-94)

#### § 150.066 EXERCISE OF POLICE POWER; FINDING; PURPOSE.

- (A) Dwellings.
- (1) Finding. Pursuant to G.S. § 160D-1201, it is hereby found and declared by the City Council that there exists in the city dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety, and morals, and otherwise inimical to the welfare of the residents of the city.
  - (2) Purpose. In order to protect the health, safety and welfare of the residents of the city as authorized by G.S. Ch. 160D, it is the purpose of this subchapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160D-1205, and to provide procedures for the repair, closing and demolition of buildings not conforming to such minimum standards of fitness, as expressly authorized by G.S. § 160D-1203.
- (B) Abandoned Structures. The City, in the provisions of the Code, provides for the repair, closing, or demolition of any abandoned structure that the City Council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. This ordinance provides for the repair, closing, or demolition of such structure pursuant to the same provisions and procedures as are prescribed by this Code for the repair, closing, or demolition of dwellings found to be unfit for human habitation, above, in subsection (A).

(Ord. 94-8-4, passed 8-8-94)

#### § 150.067 SCOPE.

- (A) This code is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes hereof which are public safety, health, and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, rooming houses, or buildings, structures, or premises used as such.
- (B) Except as otherwise provided, the provisions of this subchapter shall apply to all dwellings, boarding houses or rooms, rooming houses, and lodging facilities within the jurisdiction of the City, regardless of when such units were constructed, altered, repaired, or improved.
- (C) No provision of this code shall be held to deprive any federal or state agency, or any municipal authority having jurisdiction, of any power or authority which it had on the effective date of this

subchapter, or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

(Ord. 94-8-4, passed 8-8-94)

Cross-reference:

See Chapter 151, Mobile Homes

### **§ 150.068 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Whenever the words “apartment”, “apartment house”, “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, “premises”, or “structure” are used in this code, they shall be construed as though they were followed by the words, “or any part thereof.”

**ABANDONED STRUCTURE.** Any structure that has not been occupied or used, by its owner or by some person acting under the authority of its owners, for a continuous period of thirty (30) days or longer

**ALTER or ALTERATION.** Any change or modification in construction or occupancy.

**APARTMENT.** A room or a suite of rooms occupied, or which is intended or designated to be occupied, as the home or residence of one individual, family or household, for housekeeping purposes.

**APARTMENT HOUSE.** See MULTIPLE DWELLING.

**APPROVED.** Approved by the Housing Inspector or his authorized agent.

**AREA.** As applied to the dimensions of a building, the maximum horizontal projected area of the building at grade (See FLOOR AREA).

**ATTIC STORY.** Any story situated wholly or partly in the roof, so designated, arranged, or built as to be used for business, storage, or habitation.

**BASEMENT.** A portion of a building located partly underground but having more than one half ( $\frac{1}{2}$ ) of its clear floor-to-ceiling height (by cubic measurement) above the average grade of the adjoining ground and having direct access to light and air from windows located above the level of the adjoining ground.

**BUILDING.** Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

**BUILDING CODE.** Any edition, together with all adopted amendments and supplements thereto, of the North Carolina State Building Code or of the North Carolina State Residential Building Code, or any other building rules or regulations adopted by the city relating to the buildings and structures.

**BUILDING, EXISTING.** A building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

**CELLAR.** A portion of a building located partly or wholly underground, having one half ( $\frac{1}{2}$ ) or more of its clear floor-to-ceiling height (by cubic measurement) below the average grade of the adjoining ground, and having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

**CERTIFICATE OF COMPLIANCE.** A certificate which is issued once a structure has been deemed in compliance with this code.

**CERTIFICATE OF OCCUPANCY.** A certificate which is issued once a dwelling has been certified to meet the requirements of the housing code and it may be occupied by persons.

**CODE ENFORCEMENT OFFICIAL.** The public officer or duly authorized representative, that shall have the authority to attempt to accomplish the repair, closing, or demolition of unsafe abandoned structures. The Code Enforcement Official shall also act as a duly authorized representative of the HOUSING INSPECTOR.

**DETERIORATED.** A dwelling which is unfit for human habitation that can be repaired, altered, or improved to comply with all of the minimum standards established by this Code, at a cost not in excess of fifty percent (50%) of its value, as determined by the Housing Inspector. Repair at a cost not in excess of fifty percent (50%) of the value is hereby deemed reasonable pursuant to G.S. § 160D-1203(3)(a).

**DILAPIDATED.** A dwelling that is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this chapter only at a cost in excess of fifty percent (50%) of its value, as determined by the Housing Inspector. Repair at a cost in excess of fifty percent (50%) of the value is hereby deemed unreasonable pursuant to G.S. § 160D-1203(3)(b).

**DWELLING.** Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose.

**DWELLING UNIT.** Any room or group of rooms located within a dwelling, building or structure and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating. This includes any living arrangements, including living arrangements in hotels, motels, lodges, and other similar establishments where any individual, family or extended family resides in the same unit or complex for more than seven consecutive days within a 30-day period and the living arrangements constitute the principal residence of the occupant(s). A living arrangement shall not be considered a principal residence regardless of the length of stay if it is the result of a temporary employment assignment.

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

**FLOOR AREA.** The area included within surrounded walls of a building exclusive of vent shafts and courts.

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

**HABITABLE ROOM.** A room used or intended to be used by one or more persons for living, eating, or sleeping purposes, excluding bathrooms, water closet compartments, laundries, serving and storage pantries, corridors, cellars, and spaces that are not used frequently or during extended periods.

**HEATING.** The definitions following under HEATING shall apply to heating installations:

- (1) **CENTRAL HEATING BOILERS AND FURNACES.** Includes warm air furnaces, floor-mounted, direct-fired unit heaters, hot water boilers, and steam boilers operating at not in excess of 15 pounds of gauge pressure, used for heating of buildings or structures.
- (2) **CHIMNEY.** A vertical shaft of masonry, reinforced concrete, or other approved noncombustible, heat resisting material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gas fuel.

- (3) FLUE. A vertical passageway for products of combustion.
- (4) VENT PIPE. As applied to heating, means a pipe for removing products of combustion from gas appliances.
- (5) WATER HEATER. A device for the heating and storage of water to be used for other than heating or industrial purposes.

**HOUSING INSPECTOR.** The public officer or their duly authorized representative, authorized to exercise the powers of this code.

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

**MULTIPLE DWELLING.** Any dwelling containing more than one (1) dwelling unit.

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

**OPENABLE AREA.** That part of a window or door which is available for unobstructed ventilation, and which opens directly to the outdoors.

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

**ORDINARY MINIMUM WINTER CONDITIONS.** The temperature 20° F. above the lowest recorded temperature for the previous 15-year period.

**OWNER.** The holder of the title in fee simple and every mortgagee of record.

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

**PERSON.** A natural person, his heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

**PLUMBING.** The practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following:

- (1) Sanitary drainage or storm drainage facilities.
- (2) The venting system and the public or private water supply system, and the public or private water supply systems within or adjacent to any building, structure, or conveyance.
- (3) The practice and materials used in the installation, maintenance, extension, or alteration of storm water, liquid waste, or sewerage, and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

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

**PUBLIC OFFICER.** The officer(s) who are authorized by this Code to exercise the powers prescribed by this Code and by this Article 12 of N.C.G.S. Chapter 160D. See also, CODE ENFORCEMENT OFFICIAL and HOUSING INSPECTOR.

**ROOMING HOUSE.** Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

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

**RUBBISH.** Combustible and noncombustible waste materials, except garbage. The term shall include the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

**SUBSTANDARD DWELLING or STRUCTURE.** A dwelling, dwelling unit, multiple dwelling, apartment, apartment house or any other space used or intended to be used as a habitable living space in any building or a structure which does not meet the basic minimum requirements of this code for such use.

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

**TEMPORARY HOUSING.** Any tent, trailer or other structure used for human shelter which is designed to be transportable, 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.** Conditions that exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the provisions established by this code.

**WALLS.**

- (1) **BEARING WALL.** A wall which supports any vertical load in addition to its own weight.
- (2) **EXTERIOR WALL.** A wall, bearing or non-bearing, which is used as an enclosing wall for a building, but which is not necessarily suitable for use as a party wall or fire wall.
- (3) **FOUNDATION WALL.** A wall below the first floor extending below the adjacent ground level and serving as support for a wall, pier, column, or other structural part of a building.

(Ord. 94-8-4, passed 8-8-94; Am. Ord. passed 4-9-12)

#### **§ 150.069 CONFLICT WITH OTHER PROVISIONS.**

- (A) In the event any provision, standard, or requirement of this code is found to be in conflict with any provision of any other ordinance or code of the city, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the city shall prevail.
- (B) Nothing in this Code shall be construed to abrogate or impair the powers of the courts or of any department of the City to enforce any provisions of its charter or its ordinances or regulations nor to prevent or punish violations thereof. The powers conferred by this Code shall be supplemental to the powers conferred by any other law in carrying out the provisions of the ordinances.

#### **§ 150.070 EXISTING BUILDINGS.**

The provisions of this code shall apply to any dwelling, apartment house, or rooming house irrespective of when the building was constructed, altered, or repaired:

- (A) If, within any period of twelve (12) months, alterations or repairs are made to an existing building costing in excess of fifty percent (50%) of the then physical value of the building, such building shall be made to conform to the requirements of the building code for like new buildings.
- (B) If an existing building is damaged by fire or otherwise in excess of fifty percent (50%) of its then physical value before such damage is repaired, it shall be made to conform to the requirements of the building code for new buildings.
- (C) If the cost of such alterations or repairs, or the amount of such damage, is more than twenty-five percent (25%) but not more than fifty percent (50%) of the then physical value of the building, the portions to be altered or repaired shall be made to conform to the requirements of the building code for the new building to such extent as the Housing Inspector may determine.
- (D) Repairs and alterations not covered by divisions (A) through (C) of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of the building code or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed.
- (E) For the purposes of this section the physical value of a building or structure, as hereinbefore mentioned, shall be determined by the Housing Inspector, and they shall use as a guideline the fair market value of the building exclusive of land.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

### ***Requirements and Standards for Structures***

#### **§ 150.071 MAINTENANCE OF BUILDINGS.**

All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this code in a building when erected, altered, or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures, and premises.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

#### **§ 150.072 UTILITY SERVICES TO SUBSTANDARD BUILDINGS OR DWELLING UNITS.**

The city shall not provide, nor allow another to provide (either public or private) utility services such as water, gas, electricity, sewer, and the like, to any substandard building or dwelling unit which becomes vacant until such building or dwelling has been inspected, brought into compliance with this code, and a valid certificate of compliance, as required, has been issued. This requirement shall not preclude the temporary use of such utility services as may be deemed necessary during construction, repair, or alteration. The Housing Inspector shall be responsible for making the determination as to when such temporary services may be necessary.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

#### **§ 150.073 ISSUANCE OF PERMIT PRIOR TO INSPECTION OF SUBSTANDARD BUILDINGS OR DWELLING UNITS.**

No building, plumbing, electrical, gas or other permit, as may be required, for an addition, alteration or repair of an existing substandard building or dwelling unit shall be issued until such time as an inspection of the property has been made to determine the feasibility of rehabilitation of such building or dwelling unit.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

**§ 150.074 CERTIFICATE OF COMPLIANCE.**

No person shall occupy or allow another to occupy, or hold out for intended use, or allow another to hold out for intended use for human habitation any building, dwelling unit, or rooming unit designed or intended to be used for the purpose of human habitation which does not comply with the standards of this code and for which a valid certificate of compliance has not been issued.

**§ 150.075 MINIMUM STANDARDS OF FITNESS.**

All buildings, dwelling units, and rooming units shall provide for a healthful environment with living facilities arranged and equipped to assure such a condition. Under § 150.076 through 150.086 appear the fundamental requirements of this code which shall be observed in determining the fitness of a building for human habitation.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

**§ 150.076 PLUMBING SYSTEMS AND EQUIPMENT.**

Minimum standards for plumbing systems and equipment shall be that every building and dwelling unit (and where applicable, rooming unit) shall contain not less than the following:

- (A) A connection to a potable water supply and to the public sewer or other approved sewage disposal system.
- (B) A kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition and installed in accordance with the adopted plumbing code, and located within the dwelling unit and accessible to the occupants. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.
- (C) Plumbing, all of which meets the standards of the adopted plumbing code and which is in a state of good repair and in good working order.
- (D) Connections to the kitchen sink, lavatory, and tub or shower of an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.
- (E) Installations of all hot water heating appliances according to the plumbing code adopted by the city and capable of supplying a continuous source of hot water, on demand, to all the required fixtures at a temperature of not less than 120° F.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

**§ 150.077 VENTILATION.**

Minimum standards for ventilation shall be that every building, dwelling unit, and rooming unit shall contain not less than the following:

- (A) Windows, and the like. Every habitable room shall have a least one (1) window or skylight facing directly to the outdoors. The minimum size shall be eight percent (8%) of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction 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 percent (15%) 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 percent (45%) of the minimum window area sign or minimum skylight- type window 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.
- (D) Air conditioning. Year-round mechanically ventilating conditioned air systems may be substituted for windows, as required herein, in rooms other than rooms used for sleeping purposes. Window-type air conditioning units are not included in this exception.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

#### **§ 150.078 ELECTRICAL SYSTEMS.**

Minimum standards for electrical systems shall be that every building, dwelling unit, and rooming unit shall contain not less than the following:

- (A) Every building, dwelling unit, and rooming 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 electrical code adopted by the city. In every kitchen, at least one convenience receptacle must be installed for use of kitchen appliances, this receptacle must be protected by a ground fault circuit interrupter (GFCI) receptacle. All receptacles within twenty-four (24) inches of a water source or a countertop (either fixed or mobile) must be protected by a (GFCI) receptacle. There shall be installed in every bathroom a convenience wall type, (GFCI) receptacle. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one (1) 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.
  - (B) Hallways. 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.
  - (C) Smoke detectors. A minimum of one (1) approved listed smoke detector shall be installed in accordance with manufacturer's recommendation and listing and maintained in working condition.
  - (D) All fixtures, receptacles, equipment and wiring should be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the electrical code adopted by the city.
- € The minimum capacity of the service supply and the main disconnect switch shall be sufficient to carry adequately the total load as required by the electrical code adopted by the city, and in no case shall the service be less than one hundred (100) amps per dwelling unit.

(Ord. 94-8-4, passed 8-8-94; Am. Ord. passed 10-20-03; Am. Ord. passed 4-9-12)  
Penalty, see § 150.999

#### **§ 150.079 HEATING.**



Minimum standards for heating shall be that every dwelling shall have facilities for providing heat in accordance with either division (A) or (B) of this section, as well as complying with division (C) of this section:

- (A) Central and electrical systems. Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments, to a minimum temperature of 68° F. measured at a point three (3) feet above the floor with an outside temperature of 20° F.
- (B) Other heating facilities. Where a central or electrical heating system is not provided, each dwelling shall have adequate chimneys, flues, or gas vents with heating appliances connected, installed and maintained in good and safe working condition and capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments so as to furnish a minimum temperature of 68° F. measured at a point three feet above the floor with an outside temperature of 20° F. Under no circumstances will portable heating devices be permitted as a primary source for heating. In addition, each dwelling unit shall be provided with sufficient chimney, flues, gas vents, and/or fireplaces in accordance with the provisions of the State Building Code.
- (C) Installation and maintenance. Heating appliances and facilities shall be installed in accordance with the building code adopted by the city and shall be maintained in safe and good working condition.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

#### **§ 150.080 SPACE; USE AND LOCATION.**

Minimum standards for space, use and location shall be that every building, dwelling unit, and rooming unit shall contain not less than the following:

- (A) Dwelling unit. Every dwelling unit shall contain at least one hundred fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable floor area for each of the next three (3) occupants, and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant.
- (B) Room sizes.
  - (1) Every dwelling unit and rooming unit shall contain at least the minimum room size in each habitable room as required by the building code adopted by the city.
  - (2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant 12 years-of-age and over, and at least thirty-five (35) square feet of floor area for each occupant under 12 years-of-age.
  - (3) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and hall area within the dwelling unit, where provided, may count for not more than ten percent (10%) of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half (4 ½) feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy.

- (C) Occupant. For the purpose of this division, a person under one year-of-age shall not be counted as an occupant.
- (D) Ceiling height. At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet.
- (E) Cellar. No cellar shall be used for living purposes.
- (F) Basement. No basement shall be used for living purposes unless the floor and walls are substantially watertight, the total window area, total openable window area and ceiling height are equal to those required for habitable rooms, and 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 stair- well, window well or accessway.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

### **§ 150.081 SAFE AND SANITARY MAINTENANCE.**

Minimum standards for safe and sanitary maintenance shall be that every building, dwelling unit, and rooming unit shall comply at least with the following:

- (A) Exterior foundation walls and roofs. Every foundation wall, exterior wall, and exterior roof shall be substantially weathertight, watertight, and rodent proof, shall be capable of affording privacy, and shall be safe to use, and capable of supporting the load which normal use may cause to be placed thereon. Exterior surfaces not inherently resistant to deterioration shall be treated with a protective coating or covering and maintained in good repair to prevent deterioration.
- (B) Insulation. Every dwelling unit shall have a minimum of R-19 insulation in the attic area. The approved types include blown insulation, batt insulation, or other insulation equivalent to a total of R-19 insulation value. A minimum clear opening into each attic space of fourteen inches by twenty-four inches (14" X 24") shall be provided to allow for access, inspection and repair. The Housing Inspector or designee can grant a waiver of this requirement in the event that this requirement would necessitate major alteration of the structure, or would produce harmful accumulations of heat or moisture that cannot be removed by ventilation.
- (C) Interior floors, walls and ceilings. Every floor, interior wall, and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every tub or shower shall have a wall surface constructed and maintained so as to be substantially impervious to water and shall be maintained in a clean and sanitary condition.
- (D) Windows and doors. Every window, exterior door, and basement or cellar door and hatch-way shall be substantially weathertight, watertight, and rodent proof, and shall be kept in sound working condition and good repair. Doors shall be provided at all doorways leading to bedrooms, toilet rooms, bathrooms, and all rooms adjoining a public space. All doors leading to the exterior must have an apparatus for opening and closing the door on both sides, a locking mechanism, and shall be kept in sound working condition and good repair.
- (E) Stairs, porches and appurtenances. Every inside and outside 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.
- (F) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained to be substantially impervious to water and to permit such floor to be easily kept in a clean and sanitary condition.

- (G) Supplied facilities. Every supplied facility, piece of equipment or utility which is required under this code shall be so constructed and installed that it will function safely and effectively and shall be maintained in sound working condition.
- (H) Drainage. Every yard shall be properly graded to obtain thorough drainage and to prevent the accumulation of stagnant water.
- (I) Egress. Every dwelling unit shall be provided with means of egress as required by the building code adopted by the city.
- (J) Noxious weeds. Every yard and all exterior property areas shall be kept free of noxious weeds or plant growth which are in excess of 12 inches, and which cause or threaten to cause a hazard detrimental to the public health and safety.
- (K) Accessory structures and fences. Every fence and accessory structure shall be:
  - (1) All accessory structures shall be structurally sound and maintained in good repair and all fences and walls shall be structurally sound and maintained in good repair so that there are no broken, loose, damaged, removed, or missing parts (i.e., pickets, slats, posts, wood rails, bricks, panels). Repair of fences and walls shall be made with materials that are comparable in composition, color, size, shape, design and quality to those originally used to construct the fence or wall being repaired. Nothing herein shall be construed to prohibit or restrict the replacement of a fence or wall;
  - (2) Free from physical hazards and other matter detrimental to public health or safety;
  - (3) Exterior surfaces, not inherently resistant to deterioration, shall be treated with a protective coating, such as paint or other suitable preservative, and with sufficient frequency to prevent deterioration; and
  - (4) Any electrical, plumbing, heating or other utilities furnished to an accessory structure shall be installed in accordance with applicable provisions and maintained in a safe condition.

(Ord. 94-8-4, passed 8-8-94; Am. Ord. passed 10-20-03; Am. Ord. passed 4-9-12)  
 Penalty, see § 150.999

### **§ 150.082 INSECTS, RODENTS, AND INFESTATIONS.**

Minimum standards for control of insects, rodents, and infestations shall be that every building, dwelling unit, and rooming unit shall at least comply with the following:

- (A) Screens. 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 so as to not be permanently affixed to the window frame, sash or structural members of the dwelling unit; and maintained in good condition without rips or tears.
- (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. Notwithstanding the foregoing provisions of this division, whenever infestation is caused by failure of the actual owner to maintain a dwelling in a rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the actual owner, as opposed to the tenant/occupant. Whenever infestation exists in two (2) 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 thereof shall be the responsibility of the owner, and not the tenant.

- (D) Rubbish. Every dwelling unit shall be supplied with adequate rubbish storage facilities.
- (E) Garbage. Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers in accordance with Chapter 52 of this code.

(Ord. 94-8-4, passed 8-8-94; Am. Ord. passed 10-20-03) Penalty, see § 150.999

### **§ 150.083 STRUCTURAL CONDITION.**

Minimum standards for structural condition shall be that every building, dwelling unit, and rooming unit shall at least comply with the following:

- (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. Roof coverings shall be maintained in good condition; no more than two roof coverings on any roof (if more than two roof coverings exist, the roof coverings will not have to be removed until the current roof covering has deteriorated).
- (C) Foundations, foundation walls, piers or other foundation supports shall be maintained in such condition that they will not fail or collapse.
- (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 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 conditions 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. 94-8-4, passed 8-8-94; Am. Ord. passed 10-20-03) Penalty, see § 150.999

### **§ 150.084 ROOMING HOUSE AND DWELLING UNIT MINIMUM STANDARDS.**

All of the provisions of this subchapter, and all of the minimum standard requirements of this subchapter, shall be applicable to rooming houses and dwelling units, and to every person who operates a rooming

house, or who occupies or lets to another for occupancy any rooming unit or any rooming house, except as provided in the following divisions:

- (A) Rooming house. All rooming houses must comply with the following requirements:
- (1) Water closets, 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 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 passage 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 the cellar.
  - (2) Sanitary conditions. The owner or 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 building, and he or she shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building (within which the rooming house is contained) is leased or occupied by the operator.
  - (3) Sanitary facilities. Every water closet, flush urinal, lavatory basin, and bathtub or shower required by division (A)(1) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.
  - (4) Safety. To assure the safety of all occupants of a rooming house the following standards must be met:
    - (a) Bathroom and kitchen must have at least one (1) receptacle accessible to the countertop and lavatory without the use of a drop cord or other device and must be installed to meet the criteria of a ground fault circuit interrupter (GFCI) type receptacle.
    - (b) Smoke detectors must be provided in every rooming unit, bedroom, hallway and on every level.
    - (c) All doors leading to individual rooming units must be provided with a secure locking mechanism and door handle. No padlocks or hasps allowed.
    - (d) No cooking appliances except microwaves can be located within the rooming units.
    - (e) No portable heating appliances (fuel or electric) shall be allowed in any area of the rooming house.
    - (f) All cord and plug appliances, whether provided by the owner or occupant, must be installed in a safe and secure manner and in accordance with the manufacturer's recommendations.
    - (g) All points of ingress/egress and hallways must be lighted automatically upon diminished natural light.
    - (h) All rooming houses must be in compliance with all applicable city ordinances to receive a certificate of occupancy.

- (5) Cooking and eating facilities. All rooming houses must be supplied with the following facilities for cooking and eating.
- (a) At least one (1) room not less than one hundred twenty (120) square feet shall be located in every rooming house to be used for cooking and eating.
  - (b) All facilities for cooking and eating shall be located within the residence building served and shall be directly accessible from an interior common hall or passageway and shall not be more than one (1) story removed from any of the persons sharing such facilities.
  - (c) At least one (1) kitchen sink shall be supplied with hot and cold water at all times. A cook stove and oven of the built-in type shall be provided and maintained in good working condition at all times and the unit must be hardwired into the electrical/gas system,
  - (d) All connections to kitchen sink, oven and cook top must be in conformance with the State Building Code and standards of this chapter.
  - (e) Counter tops must be provided, not less than twenty-four by forty-eight inches (24" X 48"), in kitchen area.
  - (f) The floor covering in all rooms provided for cooking and eating shall be constructed and maintained to be substantially impervious to water and permit such to be easily kept clean and sanitary.
- (B) Dwelling unit. All dwelling units and rooming units must comply with the following requirements:
- (1) All dwelling units must comply with the minimum standards set forth in this chapter.
  - (2) All dwelling units must complete site plan approval through the Housing inspector and if applicable the Zoning Department and receive proper permits from the Building Inspections Department.
  - (3) Site plan must contain room sizes and layout, location of bathroom, eating and cooking areas, sleeping areas, ingress/egress locations, and all interior measurements.
  - (4) Rooms must conform to the minimum room sizes and the total size of the unit must not be less than two hundred forty (240) square feet of interior space.
  - (5) Kitchen sink must be a double compartment sink and cannot be a lavatory.
  - (6) Countertops must be provided in the kitchen area and cannot be less than twenty-four by forty-eight inches (24" X 48").
  - (7) Ground fault receptacles are required at the kitchen countertop and at the bathroom lavatory space. A receptacle is required in the kitchen area for the use of a refrigerator without the use of a drop cord.
  - (8) The floor covering in all rooms provided for cooking and eating shall be constructed and maintained to be substantially impervious to water and permit such to be easily kept clean and sanitary.
  - (9) A cook stove and oven of the built-in type shall be provided and maintained in good working condition at all times and must be hard-wired into the electrical system for the structure.

(Ord. 94-8-4, passed 8-8-94; Am. Ord. passed 4-9-12) Penalty, see § 150.999

**§ 150.085 ABANDONED STRUCTURES.**

- (A) Any abandoned structure that is a health or safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters, or the absence of sanitary facilities, shall be repaired, closed, or demolished. It shall be unlawful for the owner of an abandoned structure to allow the same to become or to remain a health or safety hazard as defined in this section.
- (B) The Code Enforcement Official shall have the authority to attempt to accomplish the repair, closing, or demolition of unsafe abandoned structures through the procedure set out in §150.088, except that if the estimated cost to repair the structure is fifty percent (50%) or more of its value, the structure shall be considered dilapidated, and the Code Enforcement Official shall order that it be demolished and removed. Upon the failure of the owner of an unsafe abandoned structure to comply with an order of the Code Enforcement Official to repair, close, or demolish such structure, the Code Enforcement Official shall present the matter to City Council. If the City Council finds that the abandoned structure is unsafe pursuant to division (A) of this section, it may adopt an ordinance ordering the Code Enforcement Official to cause such abandoned structure to be repaired, closed, or demolished. Each such ordinance shall be recorded as provided in §150.089, and the cost of any repair, closing, or demolition caused to be made by the Code Enforcement Official shall be a lien on the premises as provided in §150.092.
- (C) If the City Council has adopted an ordinance, or the Code Enforcement Official has issued an order, ordering an abandoned structure to be repaired or vacated and closed, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one (1) year pursuant to the ordinance or order, then if the governing body shall find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this state, then in such circumstances, the City Council may, after the expiration of such one (1) year period, enact an ordinance and serve such ordinance on the owner, setting for the following:
- (1) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days; or
  - (2) If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days. Such ordinance shall be recorded as provided in § 150.090, and the cost of any repair, closing, or demolition caused to be made by the Code Enforcement Official shall be a lien on the premises as provided in § 150.092.

(Ord. passed 10-20-03)

**§ 150.086 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.**

- (A) Cleanliness.

- (1) Every owner of a multiple dwelling shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and the premises thereof.
  - (2) Every occupant of a building, dwelling unit, or rooming unit shall keep in a clean and sanitary condition that part of the dwelling and premises thereof which he occupies and controls. The occupant shall keep the occupied area and all facilities in a clean and sanitary condition. A clean and sanitary condition shall include but is not limited to the following:
    - (a) Floors, floor coverings and other walking surfaces shall be kept clean and free of dirt, filth, garbage, fecal matter, litter, refuse and other unsanitary matter.
    - (b) Walls, ceilings, windows, and doors shall be kept clean and free of dirt, greasy films, soot, and any other unsanitary matter.
    - (c) Plumbing fixtures shall be kept in a clean, sanitary, and operable condition. No materials shall be deposited in any such fixture which may result in the obstruction of such fixture, or any lines connected thereto.
    - (d) Cookstove, refrigerator, cabinets, and other furnishings shall be kept clean, free of dirt, film, soot, and any other unsanitary condition.
    - (e) No occupant shall obstruct in any manner any means of egress/ingress to or from any portion of the premises.
- (B) Rubbish and garbage.
- (1) Except as stated below in division (B)(2), every owner of a building, dwelling unit, and rooming unit shall be responsible for the availability of rubbish and garbage storage facilities.
  - (2) Every occupant of a building, dwelling unit, or rooming unit shall dispose of all of their rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facility. Occupants of buildings containing one (1) or two (2) dwelling units shall be responsible for the availability of rubbish and garbage storage facilities.
- (C) Supplied plumbing fixtures.
- (1) Every owner of a building, dwelling unit, or rooming unit shall supply such plumbing and plumbing fixtures as are required by this code.
  - (2) Every occupant of a building, dwelling unit, or rooming unit shall keep all supplied plumbing and plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in their proper use and operation.
- (D) Care of facilities, equipment, and structure. No occupant shall willfully destroy, deface, or impair any of the facilities or equipment of any part of the structure of a building, dwelling unit or rooming unit which he occupies.
- (E) Extermination. For the responsibilities of occupants concerning extermination, see § 150.083(C) of this subchapter.
- (F) Care of premises. It shall be unlawful for the owner or occupant of a building, dwelling unit, or rooming unit to utilize the premises of such property for the open storage of any abandoned motor vehicle, icebox, refrigerator, stove, glass, building materials, building rubbish, or any other



similar items. It shall be the duty and responsibility of every such owner and occupant to keep the premises of such property clean and to remove from the premises all such abandoned items as listed above, including but not limited to, weeds, dead trees, trash, garbage, and the like. It is hereby noted that for the purposes of this division an abandoned motor vehicle is defined as a vehicle that is in a state of disrepair and incapable of being moved under its own power.

- (G) Inspections and examinations.
- (1) Every owner of a building, dwelling unit, or rooming unit shall give the Housing Inspector free access to such property at all reasonable times for the purposes of any inspection, examination or survey being conducted by the Code Enforcement Official or their office.
  - (2) Every occupant of a building, dwelling unit, or rooming unit shall give the owner thereof access to any part of such building, dwelling unit or rooming unit at all reasonable times for the purpose of the owner making such repairs or alterations as are necessary to affect compliance with the provisions of this code, or with any lawful order issued pursuant to the provisions of this code. Additionally, every occupant of a building, dwelling unit, or rooming unit shall give the Housing Inspector free access to such building, dwelling unit, or rooming unit at all reasonable times for the purposes of any such inspection, examination, or survey conducted pursuant to this chapter.

(Ord. 94-8-4, passed 8-8-94; Am. Ord. passed 10-20-03) Penalty, see § 150.999

### ***Administration and Enforcement***

#### **§ 150.087 HOUSING INSPECTOR; DUTIES AND POWERS.**

Establishment; duties and powers. Pursuant to G.S. § 160D-1203 there is hereby created and established a position to be known as the Housing Inspector, who shall be appointed by the City Manager and designated as the public officer to exercise the duties and powers prescribed in this subchapter.

- (A) It shall be the duty of the Housing Inspector:
- (1) To investigate and to inspect all buildings, dwelling units and rooming units located in the city in order to determine which such buildings, dwelling units and rooming units are unfit for human habitation as well as to carry out the general spirit and purpose of this code.
  - (2) To enforce the provisions of this code and to take such action, alone or together with other appropriate departments and agencies, public or private, as may be necessary to carry out the general spirit and purpose of this code.
  - (3) To keep adequate records of all activity conducted pursuant to this code, including but not limited to an inventory of those buildings, dwelling units and rooming units that do not meet the minimum standards of fitness prescribed by this code.
  - (4) To report annually to the City Manager concerning the work of this division, and specifically the housing section, during the preceding year.
  - (5) To perform each and every duty necessary and incidental to the fulfillment of the general spirit and purpose of this subchapter.
- (B) Pursuant to G.S. § 160D-1210, the Housing Inspector is hereby authorized to exercise any powers necessary or convenient to carry out and effectuate the general spirit, purpose, and provisions of this code, including specifically, but not limited to the following:

- (1) To investigate the dwelling conditions in the city in order to determine which buildings are unfit for human habitation.
  - (2) To administer oaths, affirmations, examine witnesses and receive evidence.
  - (3) To enter upon premises for the purpose of making examinations and inspections in a manner that will do the least possible inconvenience to the persons in possession.
  - (4) To appoint and fix the duties of officers, agents and employees necessary to carry out the purposes of this subchapter.
  - (5) To delegate any of his functions and powers under this code to other officers and other agents.
- (C) Except as outlined in NCGS Chapter 160D-1207(b)., the Housing Inspector may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. However, when the Housing Inspector determines that a safety hazard exists in one (1) of the dwelling units within a multifamily building, which in the opinion of the inspector poses an immediate threat to the occupant, the Housing Inspector may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists.

For purposes of this section, the term "reasonable cause" means any of the following:

- (1) The landlord or owner has a history of more than two (2) verified violations of the housing ordinances or codes within a 12-month period,
- (2) There has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected,
- (3) The Housing Inspector has actual knowledge of an unsafe condition within the building, or,
- (4) Violations of the local ordinances or codes are visible from the outside of the property.

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. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

#### **§ 150.088 PRELIMINARY INVESTIGATION; NOTICE; HEARING.**

- (A) Whenever a petition is filed with the Housing Inspector by a public authority or by at least five (5) residents of the city charging that any dwelling is unfit for human habitation, or whenever when it appears to the Housing Inspector, that any dwelling is unfit for human habitation, the Housing Inspector shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest is such dwelling, a complaint stating the charges and containing a notice that an administrative hearing will be held before the Housing Inspector, or authorized representative, at a place within the County in which the dwelling is located, not less than ten (10) nor more than thirty (30) days after the serving of the complaint.

The owner and parties of interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Housing Inspector.

- (B) At the hearing, the Housing Inspector may determine pursuant to G.S. § 160D-1205 that a dwelling is unfit for human habitation if it is found that conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of the neighboring dwellings, or other residents of the city. Such conditions may include, but are not limited to the following:
- (1) Defects therein increasing the hazards of fire, accidents, or other calamities.
  - (2) Lack of adequate ventilation, light, or sanitary facilities
  - (3) Dilapidation
  - (4) Disrepair
  - (5) Structural defects
  - (6) Failure in any way to conform to the minimum standards set forth in this code.
  - (7) Dangerously dilapidated, damaged, or inadequate condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, or inadequate means of egress.

(Ord. 94-8-4, passed 8-8-94; Am. Ord. TC00-5, passed 10-9-00) Penalty, see § 150.999

#### **§ 150.089 PROCEDURE AFTER HEARING; WRITTEN ORDER.**

After such required notice and administrative hearing, the Housing Inspector shall state in writing, the findings of fact in support of the determination, whether the dwelling is unfit for human habitation, and, if so, shall issue and serve the owner one of the following orders:

- (A) If the Housing Inspector determines that the dwelling is deteriorated the owner shall repair, alter, and improve the dwelling to comply with the minimum standards of fitness established by this code 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 the unsafe building until such repairs, alterations, and improvements have been made taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of eighteen (18) or occupants with physical or mental disabilities. Upon application by the owner within the specified period of time, the Housing Inspector may grant extensions of up to one (1) year if the unsafe building is occupied by the owner, or up to one hundred eighty (180) days if the dwelling is not occupied by the owner, for good cause shown.
- (B) If the Housing Inspector determines that the dwelling is dilapidated, the owner shall vacate, close and remove, or demolish the dwelling within a specified period of time not to exceed ninety (90) days. However, notwithstanding any other provision of law, if the dwelling is located in a historic district and the Historic District Commission determines, after an administrative hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160D-949.

#### **§ 150.090 FAILURE TO COMPLY WITH ORDER.**

- (A) If the owner of any deteriorated dwelling shall fail to comply with an order of the Housing Inspector to repair, alter, improve or vacate and close the same within the time specified therein, the Housing Inspector may cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and the public officer may post on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."
- (1) Occupation of a building so posted shall constitute a Class 1 misdemeanor, in accordance with NCGS 160D-1203.(4).
  - (2) The Housing Inspector shall not act until the City Council has adopted an ordinance ordering the Housing Inspector to proceed with respect to the particular property or properties that the Housing Inspector has found to be unfit for human habitation and which property or properties shall be described in the ordinance.
    - (a) This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.
- (B) If the owner of any dilapidated dwelling shall fail to comply with an order of the Housing Inspector to remove or demolish the same within the time specified therein, the Housing Inspector may cause the dwelling to be removed or demolished.
- (1) The Housing Inspector shall not act until the City Council has adopted an ordinance ordering the Housing Inspector to proceed with respect to the particular property or properties that the Housing Inspector has found to be unfit for human habitation and which property or properties shall be described in the ordinance.
    - (a) No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code.
    - (b) This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

#### **§ 150.091 ABANDONMENT OF INTENT TO REPAIR**

If the Housing Inspector shall have issued an order, ordering a dwelling to be repaired or vacated and closed, pursuant to §150.089, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one (1) year pursuant to the ordinance or order, then if the City Council shall find that the that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing, then in such circumstances, the governing body may, after the expiration of such one (1) year period, enact an ordinance on the owner, setting forth the following:

- (A) If it is determined that the dwelling is deteriorated and the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current

value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days; or

- (B) If it is determined that the dwelling is dilapidated and the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.

The ordinance shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Housing Inspector shall effectuate the purpose of the ordinance.

(Ord. 94-8-4, passed 8-8-94; Am. Ord. passed 10-20-03) Penalty, see § 150.999

Statutory reference:

For statutory authorization of ordinances to repair, close, or demolish buildings, see G.S. § 160D-1203.

### **§ 150.092 CIVIL PENALTIES; RECOVERY OF COSTS.**

- (A) Administrative fees and costs. The City Council may from time to time adopt a schedule of administrative fees to be charged and collected by the Housing Inspector in order for the city to recover its costs in administering and enforcing this chapter.
- (B) Authority to assess civil penalties. When the Housing Inspector finds that the owner has violated or continues to violate any provision of this chapter, or any order, rule, or regulation issued hereunder, the Housing Inspector may assess a civil penalty to such owner, as provided herein and in §150.999.
- (C) Costs and attorney's fees. The Housing Inspector may recover attorney's fees, court costs, and other expenses associated with the enforcement activities undertaken pursuant to this chapter, including the cost of determining ownership, expenses of notification, attorney's fees, and the cost of any actual damages incurred by the city.
- (D) Determination of the amount. In determining the amount of civil penalty to be assessed, the Housing Inspector may consider any other relevant circumstances, but shall consider the following:
- (1) The degree or extent of dilapidation or deterioration, public harm, the gravity of the violations of the Minimum Housing Code and the danger to the public health resulting from the violations.
  - (2) The gravity and duration of the violations.
  - (3) The cost to the city caused by the violations.
  - (4) The amount of money saved by noncompliance and any other economic benefit gained through the owner's violations.
  - (5) Whether the violations have been committed willfully and intentionally.
  - (6) The prior record of the owner in complying or failing to comply with the minimum housing provisions of this chapter.
  - (7) The cost for enforcement by the city.

- (E) Collection. Actions for the collection of civil penalties shall be referred to the City Attorney for collection.
- (F) Liens.
- (1) Pursuant to G.S. §160D-1203(7) the amount of the cost of repairs, alterations, and improvements, or vacating, closing and removal, or demolition shall be a lien against the real property upon which the cost was incurred. Such lien shall be filed, have the same priority and be collected as the lien for special assessment provided in N.C.G.S. Ch. 160A, Article 10.
  - (2) If the real property upon which the cost was incurred is located in the City limits, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one (1) mile thereof, except for the owner's primary residence. The additional lien provided herein is inferior to all prior liens and shall be collected as a money judgment.
  - (3) If the dwelling is removed or demolished by the Housing Inspector, the City shall, if possible, sell in the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition. Any balance remaining shall be deposited by the Housing Inspector with the clerk of Superior Court for subsequent disbursement by the court to the persons found by the court to be entitled thereto. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.
- (G) Civil Action. If any occupant fails to comply with an order to vacate a dwelling, the Housing Inspector may file a civil action in the name of the city to remove such occupant. Such action shall be filed and conducted in accordance with the provisions of G.S. § 160D-1203(8).
- (H) Appeals. The person who has been assessed a civil penalty by the Housing Inspector and who desires to dispute such penalty, must file a written notice of appeal with the City Manager and follow the procedures set forth in this chapter for prosecuting appeals. During the pendency of such appeal the assessment of such penalties shall be stayed.
- (I) Assessment not a bar. Assessment of a civil penalty shall not be a bar against or prerequisite for the taking of any other action against the owner.
- (J) Other available remedies, injunctive relief. In addition to the remedies previously provided in this chapter, the Housing Inspector may use any one or combination thereof against a non-compliant owner or person entitled to possession. Additional remedies shall include but are not limited in injunctive relief sought through a petition filed with the General Court of Justice by the City Attorney for the issuance of such injunctive relief as may be appropriate seeking to restrain or compel the activities necessary to comply with the provisions of this chapter.

(Ord. 94-8-4, passed 8-8-94) Penalty, see § 150.999

**§ 150.093 SERVICE OF COMPLAINTS AND ORDERS. ADDITIONAL NOTICES.**

- (A) Complaints and all orders issued by the Housing Inspector shall be served by the Housing Inspector upon persons either personally, or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

- (B) If the identities of any owners or the whereabouts of persons are unknown and the same cannot be ascertained by the Housing Inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail and the Housing Inspector makes an affidavit to that effect, then the serving of such complaint or order upon the owners or other persons may be made by publication in the local newspaper at least once no later than the time at which personal service would be required under the provisions of the Minimum Housing Code and G.S. Ch. 160D. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.
- (C) Whenever a determination is made pursuant to Section 150-089, that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of forty-five (45) days from the mailing of such notice shall be given before removal or demolition by action of the Housing Inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Housing Inspector or the City Clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Housing Inspector to wait forty-five (45) days before causing removal or demolition.

(Ord. 94-8-4, passed 8-8-94; Am. Ord. passed 10-20-03; Am. Ord. passed 3-9-09)

#### **§ 150.094 PERIODIC INSPECTIONS.**

Inspections may be undertaken by the Housing Inspector as outlined in Section 150-087(C) and as provided in NCGS Chapter 160D-1207.

#### **§ 150.095 REMEDIES; APPEALS FROM ORDERS OF HOUSING INSPECTOR.**

- (A) An appeal from any decision or order of the Housing Inspector may be taken by any person aggrieved thereby or by any officer, board, or commission of the local government. Any appeal from the Housing Inspector shall be taken within ten (10) days from the rendering of the decision, or within (10) ten days of service of such order. Such appeal shall be taken by filing with the Housing Inspector and with the Board of Adjustment created in Chapter 155, Land Development Code, (hereinafter called "the Board") a notice of appeal which shall specify the grounds upon which the appeal is based.
- (1) Upon the filing of any notice of appeal, the Housing Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made.
  - (2) When any appeal is from a decision of the Housing Inspector refusing to allow the person aggrieved thereby to do any act, the decision shall remain in force until modified or reversed.
  - (3) When any appeal is from a decision of the Housing Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Housing Inspector certifies to the Board after the notice of appeal is filed, that by reason of the facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of the requirement would cause imminent peril to life or property. In that case, the requirement shall be suspended except by a restraining order, which may be granted for due cause upon not less than one (1) days written notice to the Housing Inspector by the Board.

- (B) The Board shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and, to that end, it has all the powers of the Housing Inspector, but the concurring vote of four members of the board is necessary to reverse or modify any decision or order of the Housing Inspector. The Board also has power in passing upon appeals, when unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.
- (C) Every decision of the Board shall be subject to review by the County Superior Court by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the Board, but not otherwise.
- (D) Any person aggrieved by an order issued by the Housing Inspector or a decision rendered by the Board may petition the Superior Court for an injunction restraining the Housing Inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Housing Inspector pending a final disposition of the cause.
- (1) The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision.
  - (2) Hearings shall be heard by the County Superior Court on a petition within twenty (20) days and shall be given preference over other matters on the court's calendar.
  - (3) The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require.
  - (4) It is not necessary to file bond in any amount before obtaining a temporary injunction under this subsection.
- (E) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Code or any valid order or decision of the Housing Inspector or board made pursuant to this Code adopted, the Housing Inspector or Board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, or use; to restrain, correct, or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling.

(Ord. 94-8-4, passed 8-8-94)

**§ 150.096 COSTS AND FEE SCHEDULE.**

- (A) Subsequent to adopting this Code, the City shall prepare an estimate of the annual expenses or costs to provide the equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings for the purpose of determining the fitness of dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this Article. The City is authorized to make appropriations from its revenues necessary for this purpose and may accept and apply grants or donations to assist it.
- (B) Because of budgetary considerations and because the city deems it appropriate to place the monetary burden of enforcing the minimum housing code on the owners of property who fail or refuse to maintain their property so as to meet the minimum standards of fitness for human habitation, the City Council hereby adopts administrative fees which can be found in the adopted City of Bessemer City Fee Schedule.



- (C) If court action is necessary, the city shall seek recovery of its reasonable attorney fees and court costs for the prosecution or defense of the actions of the city.

(Res. passed 8-8-94) Penalty, see § 150.999

**§ 150.097 COMPENSATION TO OWNERS OF CONDEMNED PROPERTY.**

Nothing in this subchapter shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

Camping and other activity prohibited on public property.

- a. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
  - a. Camp or camping means the use of city property for living accommodation purposes such as sleeping, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or placing any tents or a temporary shelter on city property for living accommodation purposes.
  - b. Temporary shelter means tents, tarps, or any type of structure or cover that provides partial shelter from the elements.
- b. It shall be unlawful for anyone to camp on any public property owned by the city including public right-of-way and sidewalks.
- c. Camping as defined in this section is deemed a public nuisance and the city may summarily remove a temporary shelter, bedding or personal belongings.
- d. It shall be unlawful to light or use a campfire or bonfire on public property except as may be specifically authorized by a permit.
- e. Civil Penalties:
  - a. Violations of any of the provisions of this section will result in the following civil penalties:
    - i. First offense in any twelve-month period - \$100.00
    - ii. Second offense in any twelve month period - \$500.00
    - iii. Third or more offense in any twelve month period –\$1000.00
  - b. The City Manager or the Manager’s designee may issue a notice of violation assessing civil penalties. The notice shall be issued in writing and shall set forth with reasonable specificity the basis for the civil penalty. The notice of violation shall be served by registered or certified mail, or by personal service. When service is made by registered or certified mail, a copy of the notice may also be sent by first class mail. Service shall be deemed sufficient if the first class mail is not returned by the Post Office within ten (10) business days after the mailing. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty.
  - c. The notice of violation shall contain a time period which the violation must be corrected. From and after the date specified in the notice, each subsequent day that the violation continues shall constitute a separate and distinct offense subject to additional civil penalties.
  - d. If any person fails to pay any civil penalty within thirty (30) days after the decision becomes final, the City may recover the penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt.
- f. Administrative fee:
  - a. Any person who violates this article shall pay and administrative fee of one hundred dollars (\$100.00) per violation in addition to civil penalty.

g. Other Remedies:

- a. In addition to civil penalties, a violation of this division is a misdemeanor and may also be enforced through injunctive or other equitable relief, or a combination of remedies.

## Mobile Food Vendor Ordinance

### Definitions:

1. **Mobile Food Vendor or Food Truck** - shall include vendors of food, drink, or other consumable products which may operate as a food truck, food trailer, food cart, or other similar mobile or temporary vehicle that is licensed by the NC Division of Motor Vehicles and as authorized by N.C. G.S. 130A-247 et seq., which is temporarily stored in a location where food items are sold to the general public and is a vehicle mounted, vehicle towed or vehicle carried food service establishment, including ice cream trucks, designed to be readily moved.
2. **Vendor** – any person who owns, operates or manages a business that uses and who prepares or serves pre-packaged or cooked food and/or beverages for sale to the public on a recurring basis from a food truck.

### Locations:

#### 1. General:

- a. Mobile food vendors shall be permitted to operate in any commercial, business, or industrially zoned areas, so long as they obtain written permission from the property owner and submit a copy of said written permission to the City with their application.
- b. Mobile food vendors shall be permitted to operate in any publicly-maintained park(s), but first must receive permission from the City Manager and or the City Parks and Recreations Director.
- c. Operation of mobile food vendors on individual residentially zoned lots, whether developed with dwellings or not, shall be prohibited.
- d. Mobile food vendors shall not be located within one hundred (100) feet of the main entrance of any restaurant, any outdoor dining space, or any fixed location of competing nature nor shall mobile food vendors block or park in front of any other open business, unless said business owns the mobile food truck, or permission given by property owner. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
- e. No mobile food vendor may be parked in a location that prohibits or restricts access to a private property. Minimum five foot (5) spacing is required from any driveway, measured from the driveway apron.
- f. Mobile food vendors must be located at least five (5) feet from any utility box, utility vault, handicapped ramp, or similar feature. The mobile food vendor must be located at least fifteen (15) feet from a fire hydrant. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
- g. The mobile food vendor shall not impede or interfere with pedestrian or vehicular traffic flow, nor obstruct ingress/egress of a building as set forth in all applicable North Carolina State Building and Fire Codes.

#### 2. Right-of-way Eligibility Standards:

- a. The mobile food vendor may only be parked within the permitted parking space within City of Bessemer City owned right-of-way or maintained by the City of Bessemer City but

at no time shall be parked on any North Carolina Department of Transportation right-of-way as provided for in N.C.G.S. 136-18(9), North Carolina Administrative Code 19A NCAC 02E.0414 and NCDOT Maintenance Operations Manual General Ordinance 14. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.

- b. All mobile food vendors must be situated on the street right of way to allow at least five (5) feet of unobstructed space for pedestrians on sidewalks, pedestrian paths and other locations intended primarily for pedestrian travel. If any applicable law, including Americans with Disability Act regulations, shall require a greater distance, the greater distance shall apply.
- c. All mobile food vendors must be situated such that the service window from which customers place orders are on the sidewalk or other pedestrian walkway side of the food truck and at no time shall customers be allowed to place orders from the motoring public side of said mobile food unit. The requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
- d. The mobile food vendor may not operate or park within the permitted parking space before 7:00 AM and must cease operation and leave the permitted parking space by 10:00 PM. This requirement shall not apply during festivals and other events when the streets are closed during such festival or event.

#### Standards:

1. A Temporary Use Permit issued by the City of Bessemer City Planning and Zoning Department shall be required for the operation of any mobile food vendor within the incorporated city limits of Bessemer City. The approved permit must be posted in public view while operating within the City of Bessemer City.
2. The vendor shall submit an application to the Planning and Zoning Department, which shall include a site plan showing the location or locations where the mobile food vendor will operate and demonstrate that all requirements of this ordinance can be met while operating at each location.
3. The mobile food vendor shall only operate at those locations specified in the permit.
4. A permit shall be valid for a period of one year from the date of issuance.
5. A valid health department inspection grade card from the Gaston County Health Department shall be visually displayed on the mobile food truck or cart in a clear view of all patrons and the mobile food vendor shall comply with all regulations and requirements of the Gaston County Health Department as well as any other governmental unit so authorized to issue such rules and regulations and shall provide documentation of compliance upon request.
6. The suspension, expiration, or revocation of approvals and permits associated with any North Carolina County's Environmental Health Department will render the Mobile Food Vendor Permit void.
7. Mobile food vendors must comply with all applicable Environmental Health regulations set forth by the North Carolina Department of Health and Human Services, specifically § 15A NCAC 18A .2670 of NCDHHS's *Rules of Governing the Food Protection and Sanitation of Food Establishments*.
8. Mobile food vendors shall not occupy any ADA handicap accessible parking spaces.

9. Mobile food vendors are limited to daily hours of operation between 7am-10pm. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
10. Mobile food vendors shall supply adequate solid waste receptacles for customers, city receptacles may not be utilized for this purpose.
11. No liquid waste or grease may be poured into any tree pit, storm drain, street, gutter pan, sidewalk, or any other public space. Grease cannot be released into the City's sanitary sewer system and shall be disposed of off-site at a separate location.
12. Mobile food vendors shall make available hand sanitizer to its customers.
13. Food trucks must have the following fire extinguishers on board during hours of operation: minimum Class 2A, 10B, and C rated extinguisher. If food preparation involves deep frying, a Class K fire extinguisher must also be on the truck. Fire extinguishers shall be maintained pursuant to National Fire Protection Association (NFPA) Standard 10.
14. Mobile food vendors shall not operate as a drive through window.
15. The noise level from the food truck motor and generator must comply with the City's noise ordinance.
16. No signage shall be allowed other than signs permanently attached to the motor vehicle. The mobile food vendor shall not place or use sound equipment on or in the area of the mobile food unit. This requirement shall not apply during festivals or other events when the streets are closed during such festivals or events.
17. Alcohol may not be served by any food truck vendor. This requirement shall not apply during festivals or other events when the streets are closed during such festivals or events and all state and local laws governing the sale of alcohol shall be complied with. Vendors must submit proof of all valid licensure for the sale of alcohol prior to festival or event.
18. Vendor or vendor's designee shall be in attendance of the mobile unit at all times, except in the case of emergency.
19. Vendor will bear all costs associated with the establishment and operation of the food truck, including, but not limited to the provision of water and electrical power. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.

#### Enforcement

1. Civil Penalties:
  - a. Violations of any of the provisions of this section will result in the following civil penalties:
    - i. First offense in any twelve-month period - \$100.00
    - ii. Second offense in any twelve month period - \$500.00
    - iii. Third or more offense in any twelve month period – Permit ban from operation within city limits plus \$1000.00 fine.
  - b. The City Manager or the Manager's designee may issue a notice of violation assessing civil penalties. The notice shall be issued in writing and shall set forth with reasonable specificity the basis for the civil penalty. The notice of violation shall be served by registered or certified mail, or by personal service. When service is made by registered or certified mail, a copy of the notice may also be sent by first class mail. Service shall be

deemed sufficient if the first class mail is not returned by the Post Office within ten (10) business days after the mailing. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty.

- c. The notice of violation shall contain a time period which the violation must be corrected. From and after the date specified in the notice, each subsequent day that the violation continues shall constitute a separate and distinct offense subject to additional civil penalties.
  - d. If any person fails to pay any civil penalty within thirty (30) days after the decision becomes final, the City may recover the penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt.
2. Administrative fee:
    - a. Any person who violates this article shall pay and administrative fee of one hundred dollars (\$100.00) per violation in addition to civil penalty.
  3. Other Remedies:
    - a. In addition to civil penalties, a violation of this division is a misdemeanor and may also be enforced through injunctive or other equitable relief, or a combination of remedies.
  4. Appeals:
    - a. A party aggrieved may appeal any decision under this section to the City Manager within fifteen (15) calendar days after the contested decision. An appeal must be made in writing and shall contain the reasons supporting the appeal and any evidence that supports it. The person appealing may review the evidence that is the basis of any suspension or violation during the City's normal business hours. The City Manager or his designee shall review the information provided and shall issue a written decision determining whether a violation has occurred.
    - b. After receiving a determination from the City Manager or his designee, a party aggrieved may appeal to the City Council within twenty-one (21) calendar days after the City Manager's decision (or the decision of his designee) was mailed. The scope of the City Council's review shall be limited to verifying the facts supporting a written decision or Findings of Fact made on a suspension. If the City Council finds that the facts as found are correct, the civil penalty, administrative fee, or suspension shall be upheld.
  5. Termination or Amendment of Mobile Food Vending.
 

The City Council may amend, revise or terminate mobile food vending by ordinance duly enacted.

**BUDGET AMENDMENT 2021-2022**

**June 7, 2022**

BE IT ORDAINED by the governing body of the City of Bessemer City that the following amendments be made to the annual budget ordinance for the fiscal year ending June 30, 2022.

Section 1. To amend the General Fund, the appropriations are to be changed as follows:

**General Fund**

<b>Dept Number</b>	<b>Description</b>	<b>Increase</b>	<b>Decrease</b>	<b>Debit</b>	<b>Credit</b>
100-80-6130-500	Capital Outlay (Lighting Stinger)	\$ 1,300,000.00			

This will result in a net increase in appropriations for the General Fund.  
To provide for the increase, the following General Fund Revenue Accounts will be increased.

**General Fund**

<b>Dept Number</b>	<b>Description</b>	<b>Increase</b>	<b>Decrease</b>	<b>Debit</b>	<b>Credit</b>
100-00-3910-910	Loan Proceeds (Truist)	\$ 1,300,000.00			

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction.

Adopted by Council, this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Becky S. Smith, Mayor

Attest:

\_\_\_\_\_  
Hydeia Y. Hayes, Clerk