



## **MINIMUM HOUSING ORDINANCE**

### **Section 1: AUTHORITY AND PURPOSE.**

- (A) Pursuant to NCGS 160A-441, it is hereby found and declared by the City Council of the City of Archdale that there exist 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 to the health, safety, and morals, otherwise detrimental to the welfare of the residents of the City.
- (B) In order to protect the health, safety, and welfare of the City of Archdale as authorized by Part 6 Article 19, Chapter 160A of the North Carolina General Statutes, it is the purpose of this ordinance to establish minimum standards of the fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by NCGS 160A-444, and to provide procedures for the repair, closing, and/or demolition of structures not conforming to such minimum standards of fitness, as expressly authorized by NCGS 160A-441.
- (C) In addition, it is hereby found and declared under the authority of NCGS 160A-174, that there exists in the City dwellings which, although not meeting the classification as unfit for human habitation, fail to fully comply with all the minimum standards for housing fitness as established herein and therefore have present one or more conditions which are inimical to the public health, safety, and general welfare. Such conditions, if not corrected can lead to deterioration and dilapidation of dwellings which render them unfit for human habitation.

### **Section 2: JURISDICTION.**

The provisions of this article are applicable to all residential buildings and their associated appurtenances within the City limits, as now or hereafter fixed.

### **Section 3: CODE REMEDIAL.**

This code is hereby declared to be remedial, and is intended promote 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 incidental to the construction, alteration, repair, removal, demolition, use, and occupancy of dwelling units, accessory structures, buildings, or premises used as such.

Section 4: **SCOPE.**

- (A) The provisions of this ordinance shall apply to the construction, alteration, repair, equipment, use, occupancy, location, maintenance, removal, and demolition of every residential building or any appurtenances of such building.
- (B) This ordinance does not replace or modify requirements otherwise established for the construction, repair, alteration, or use of buildings, equipment, or facilities except as provided for within this ordinance.
- (C) In any case where a provision, standard, or requirement of this article is found to be in conflict with a provision of this or any other City of Archdale code or ordinance, the provision which establishes the higher standard or more stringent requirement for the protection of health and safety shall prevail. The *North Carolina State Building Code*, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions, and other acts of building made or required pursuant to this article.

Section 5: **DEFINITIONS.**

- (1) **ACCESSORY STRUCTURE.** A subordinate building customarily incidental to and located on the same lot with the main building such as a storage building, garage, or swimming pool.
- (2) **ALTER OR ALTERATION.** Any change or modification in construction or occupancy.
- (3) **APARTMENT.** Any dwelling which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of two (2) or more families living independently of each other in dwelling units.
- (4) **APPROVED.** Approved by the Inspector or his designated agent.
- (5) **BASEMENT.** A portion of a dwelling which is located partly underground and which has direct access to light and air from windows located above the level of the adjoining ground.
- (6) **BUILDING.** Any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of persons, animals, or property. The term “building” shall be construed as if followed by the words “or part thereof”.
- (7) **BUILDING CODE.** Any edition, together with all adopted amendments and supplements thereto, of the North Carolina Building, Plumbing, Mechanical, Electrical, Energy, and Residential maintenance code, NFPA 73, or any other building rules or regulations adopted by the City relating to the construction, alterations, repair, or removal of various types of buildings and structures.
- (8) **CELLAR.** A portion of a dwelling which is located partly or wholly underground and which has inadequate access to light and air.

- (9) **DETERIORATED.** A dwelling which is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this article, at a cost of less than fifty percent (50%) of its physical value, as determined by the Inspector. Repair at a cost not in excess of fifty percent (50%) of the value is hereby deemed reasonable pursuant to NCGS 160A-443(3).
- (10) **DILAPIDATED.** A dwelling which is unfit for human habitation and could be repaired, altered, or improved to comply with all of the minimum standards established by this article, only at a cost in excess of fifty percent (50%) of its physical value, as determined by the Inspector.
- (11) **DWELLING.** Any building, structure, or part thereof which is wholly or partly used or intended to be used for living, sleeping, or habitation by human occupants, and includes any accessory structures and appurtenances belonging thereto or usually enjoyed therewith.
- (12) **DWELLING UNIT.** An enclosure of one or more rooms providing complete independent living facilities for one family, including permanent facilities for living, sleeping, eating, cooking, and sanitation.
- (13) **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 Inspector.
- (14) **GARBAGE.** All solid waste that is capable of being decomposed of by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes and carcasses, including animal carcasses and recognizable industrial byproducts, but excluding sewage and human waste.
- (15) **HABITABLE ROOM.** A room used or intended to be used by one or more persons for living, eating, or sleeping purposes, excluding bathrooms, laundry rooms, serving and storage pantries, closets, corridors, hallways, and cellars.
- (16) **HEATING.** The definitions following under this subdivision shall apply to heating installations.
  - a) *Central heating boilers and furnaces.* Heating furnaces and boilers shall include warm air furnaces, floor-mounted, direct-fired unit heaters, hot water boilers, and steam boilers operating at not in excess of fifteen (15) pounds of gauge pressure, used for heating of buildings or structures.
  - b) *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.
  - c) *Flue.* A vertical passageway for products of combustion.
  - d) *Vent pipe.* As applied to heating, means a pipe for removing products of combustion from gas appliances.
  - e) *Water heater.* A device for the heating and storage of water to be used for other than heating or industrial purpose.
- (17) **INFESTATION.** The presence, within or around a dwelling, of any insects, rodents, or other pests in such a manner as to constitute a menace to the health, safety, or welfare of the occupants or the public.

- (18) **INSPECTOR.** Shall mean the Planning Director or his designee(s) that are hereby assigned to enforcing the provisions of this ordinance. The City of Archdale reserves the right to contract with outside agencies or qualified individuals to assist in the enforcement of this ordinance.
- (19) **MULTI-FAMILY DWELLING.** Any dwelling containing more than one dwelling unit.
- (20) **OCCUPANT.** Any person living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit.
- (21) **OPERATOR.** Any person who has charge, care, or control of a building, or part thereof, in which a dwelling unit is let.
- (22) **OWNER.** Any person who alone, jointly, or severally with others:
- a) has title or any interest in or to any dwelling or dwelling unit, without regard to actual possession; or
  - b) shall be a mortgagee of record for any dwelling or dwelling unit; or
  - c) has charge, care, or control of any dwelling or dwelling unit, as owner or representative of the owner, or as a fiduciary of the estate of the owner. It is specifically noted that any person meeting the definition of “owner” under this subsection (22)(b) shall be bound to comply with the provision of the code to the same extent as though he were an “owner” under the above definition in subsection (22)(a).
- (23) **PERSON.** Any individual, corporation, firm, partnership, association, or other legal entity.
- (24) **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: sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building, structure, or conveyance; also the practice and materials used in the installation, maintenance, extension, or alteration of storm water, liquid waste, or sewage, and water supply systems of any premises to their connections with any point of public disposal or other acceptable terminal.
- (25) **RUBBISH.** Combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, and other combustible material, paper, rags, cartons, boxes, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.
- (26) **SUPPLIED.** Paid for, furnished, or provided by or under the control of the owner or operator.
- (27) **UNFIT FOR HUMAN HABITATION.** Conditions that exist in a dwelling or dwelling unit which violate or do not fully comply with the minimum standards of fitness of one or more of the provisions established by this code.
- (28) **WALLS.**
- a) *Bearing wall.* A wall which supports any vertical load in addition to its own weights.
  - b) *Exterior wall.* A wall, bearing or nonbearing, which is used as an enclosing wall for a building, but which is not necessarily suitable for use as a party wall or firewall.

- c) *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.

Section 6.1: **CONDITIONS RENDERING DWELLINGS UNFIT FOR HUMAN HABITATION.**

- (A) The Inspector shall determine that a dwelling is unfit for human habitation if he finds that any one of the following conditions exist in such dwelling:
  - (1) Interior walls or vertical studs which seriously list, lean, or buckle to an extent as to render the building unsafe.
  - (2) Supporting member or members which show 33% or more damage or deterioration, or non-supporting, enclosing, or outside walls or covering which shows 50% or more of damage or deterioration; provided that such deterioration affects the structural integrity of the building.
  - (3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purposes used.
  - (4) Such damage by fire, wind, or other causes as to render the building unsafe.
  - (5) Dilapidation, decay, unsanitary conditions, or disrepair which is dangerous to the health, safety, or welfare of the occupants or other people of the jurisdiction.
  - (6) Inadequate facilities, as required by the *North Carolina State Building Code*, for egress in case of fire or panic.
  - (7) Defects significantly increasing the hazards of fire, accident, or other calamities.
  - (8) Lack of adequate ventilation, light, heating, or sanitary facilities to such extent as to endanger the health, safety, or general welfare of the occupants or other residents of the jurisdiction.
  - (9) Lack of proper electrical, heating, or plumbing facilities required by this article which constitute a health or safety hazard.
  - (10) Lack of proper connection to a potable water supply and/or to the public sewer or other approved sewage disposal system, the lack of either one of which renders a dwelling unfit for human habitation.
  
- (B) In addition to the conditions stated in subsection (A), a dwelling shall be found by the Inspector as unfit for human habitation if the Inspector finds that such a dwelling fails to fully comply with any seven (7) or more of the minimum standards as stated in Section 7: Minimum Standards for Dwelling Fitness; provided that the Inspector shall not count more than once the same type failure to comply with minimum standards in making a finding that seven or more such failures exist. Full compliance with a standard shall mean that if any part of a stated minimum standard is not complied with by a particular dwelling then that dwelling has failed to fully comply with the entire minimum standard as stated herein.
  
- (C) Accessory structures and other appurtenances such as detached garages, storage sheds, fences, swimming pools, etc. shall be maintained in a safe, sanitary, and secure fashion. Any electrical, plumbing, heating, or other utilities furnished with an accessory structure or appurtenance shall be installed in accordance with all applicable code provisions and be maintained in a safe condition. Per the authority granted per NCGS 160A-441 and 160A-

442, these structures may be required to be altered, repaired, improved, or demolished and/or removed by order of the Inspector should they reach a point of deterioration and/or decay as to render them detrimental to the health, safety, and general welfare of the community.

**Section 6.2: DWELLINGS NOT IN COMPLIANCE, BUT NOT UNFIT FOR HUMAN HABITATION.**

In any case where the Inspector finds that a dwelling fails to comply with one or more but less than seven (7) of the minimum standards for dwelling fitness as stated in Section 7 and finds that none of the conditions stated in 6.1(A) exist, such dwelling shall not be found unfit for human habitation and shall not be subject to the procedures and remedies as provided in this article for dwellings unfit for human habitation.

**Section 7: MINIMUM STANDARDS FOR DWELLING FITNESS.**

**(A) Minimum standards for structural conditions.**

- (1) 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 so as to be unsafe to use and incapable of supporting a load that normal use may cause to be placed thereon.
- (2) Floors or roofs shall have adequate supporting members and strength to be safe to use and capable of supporting a load that normal use may cause to be placed thereon.
- (3) Foundations, foundation walls, piers, or other foundation supports shall be kept in sound condition and good repair so as to be capable of supporting a load that normal use may cause to be placed thereon.
- (4) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in sound condition and good repair so that they shall be safe to use and capable of supporting a load that normal use may cause to be placed thereon.
- (5) 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 a load that normal use may cause to be placed thereon.
- (6) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather tight and watertight.
- (7) There shall be no chimneys or parts thereof which are defective and deteriorated so as to be unsafe and in danger of falling, or in such condition or location as to constitute a fire hazard.
- (8) There shall be no use of the ground for floors, or wood floors on the ground.

(B) Minimum standards for basic equipment and health facilities.

(1) *Plumbing system.*

- a) All water to each dwelling unit shall be supplied through an approved pipe distribution system connected to a potable water supply.
- b) Each dwelling unit shall be supplied with a kitchen sink, lavatory, tub or shower, and a toilet, all in good working condition.
- c) Each dwelling unit shall have connected to the kitchen sink, lavatory, and tub or shower an adequate supply of both cold water and hot water.
- d) All plumbing fixtures, and water and waste pipes shall be maintained in good sanitary working condition, free from defects, leaks, and obstructions.
- e) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The toilet and tub or shower shall be located in a room or rooms affording privacy to the user.
- f) All new plumbing shall be installed in accordance with the state plumbing code. Any repair or replacement of existing plumbing shall be done in accordance with the plumbing code when, in the opinion of the Inspector, it is reasonably practicable or otherwise vital in the interest of health and sanitation.

(2) *Heating system.*

- a) Every dwelling and dwelling unit shall be supplied with facilities providing heat. Portable kerosene heaters are not acceptable as a permanent source of heat.
- b) All heating systems, appliances, and facilities shall be installed in accordance with the state building code and shall be maintained in a safe and good working condition.

(3) *Electrical system.*

- a) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the state electrical code. There shall be installed in every bathroom, lavatory, laundry room, and furnace room at least one supplied ceiling or wall-type electric light fixture.
- b) Every public hall and stairway in every multi-family dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- c) All fixtures, receptacles, equipment, and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed and connected in accordance with the state electrical code.

- d) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the load required in accordance with the state electrical code.

(4) *Fire protection system.*

- a) Every dwelling and dwelling unit shall comply with all applicable provisions of the state fire prevention code.
- b) Every dwelling and every dwelling unit shall have supplied and installed a minimum of one approved and listed smoke detector installed outside the sleeping area on each floor level of the dwelling unit.

(5) *Kitchen facilities.*

- a) Each dwelling unit shall have a kitchen supplied with a minimum of the following facilities:
  - i. Food preparation surfaces impervious to water and free of defects which could trap food or liquid.
  - ii. Shelves, cabinets, or drawers maintained in good repair for the storage of food and cooking and eating utensils.
  - iii. A freestanding or permanently installed cook stove. Portable electric cooking equipment shall not fulfill this requirement. Portable cooking equipment employing flame shall be prohibited from the kitchen area.
  - iv. Mechanical refrigeration equipment for the storage of perishable foodstuffs.

- (6) *Alternative agreements.* Nothing herein shall preclude a written agreement between an owner and occupant that the occupant will furnish a cook stove and/or mechanical refrigeration equipment as required in this subsection. It shall be an affirmative defense available to an owner charged with a violation of this subsection if such a written agreement exists.

(C) Minimum standards for safe and sanitary maintenance.

- (1) *Exterior foundation, walls, roofs.* Every foundation wall, exterior wall, and exterior roof shall be substantially weather tight, watertight, and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting a load that normal use may cause to be placed thereon. Every exterior wall, except masonry and brick construction, shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- (2) *Interior floor, walls, and ceilings.* Every floor, interior wall, and ceiling shall be substantially rodentproof, 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.

- (3) *Windows and doors.* Every window made or manufactured to open and close, exterior door, basement or cellar door, and hatchway shall be substantially weather tight, watertight, and rodent proof; and shall be kept in sound working condition and good repair. There shall be no broken glass.
  - (4) *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.
  - (5) *Kitchen and bathroom floors.* Every kitchen and bathroom floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition.
  - (6) *Supplied facilities.* Every supplied facility, piece of equipment, or utility which is required under this article shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.
  - (7) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the state building code and there shall be no obstruction in any manner of any means of ingress and egress from any portion of the dwelling.
  - (8) *Accessory structures and other appurtenances.* Structures and appurtenances such as detached garages, storage sheds, fences, swimming pools, etc. shall be maintained in a safe, sanitary, and secure fashion. Any electrical, plumbing, heating, or other utilities furnished with an accessory structure or appurtenance shall be installed in accordance with all applicable code provisions and be maintained in a safe condition.
- (D) Minimum standards for control of insects, rodents, and infestations.
- (1) *Screens - door openings.* In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space used or intended to be used for ventilation shall have supplied and installed screens and a self closing device; except, that sliding doors and doors that open into rooms of living spaces that are mechanically ventilated or air conditioned are exempt from this provision.
  - (2) *Screens - window openings.* In every dwelling unit, for protection against mosquitoes, flies, and other insects, every window or other device with openings to outdoor space used or intended to be used for ventilation shall have supplied and installed screens; except, that this requirement shall not apply to dwellings

containing an operable central heating system and adequate cooling equipment for mechanically ventilating the dwelling year around.

- (3) *Screens - installed and maintained.* Screens on all windows and doors shall be installed in a frame or casing fitted into the window, door frame, or opening. In no instance shall a screen be stapled, taped, or directly affixed to the inside or outside of a window, door frame, or opening. Screens shall be maintained without open rips or tears.
- (4) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement or crawlspace which might provide an entry for rodents, shall be supplied with screens installed or such other device as will effectively prevent their entrance.
- (5) *Infestation.* There shall not be an infestation of any insects, rodents, or other pests therein or on the premises in such number as to constitute a menace to the occupants of the dwelling or the public.
- (6) *Storage and disposal of rubbish and garbage.* Every dwelling and every dwelling unit shall have approved container(s) and cover(s) for the storage of rubbish and garbage as required by the City in Chapter 9, Article II of the City of Archdale Code of Ordinances.

#### Section 8: **RESPONSIBILITIES OF OWNERS AND OCCUPANTS.**

- (A) *Common areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a sanitary condition the shared or public areas of the dwelling and its premises.
- (B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a sanitary condition that part of the dwelling, dwelling unit, and premises which he occupies and controls.
- (C) *Garbage and rubbish.* Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and rubbish in a sanitary manner by placing it in the supplied storage facilities.
- (D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a sanitary condition and shall be responsible for the exercise of reasonable care in their use and operation.
- (E) *Care of facilities, equipment, and structure.* No occupant shall destroy, deface, or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit.

#### Section 9: **ADMINISTRATION AND ENFORCEMENT.**

- (A) Inspector; *Duties.*

- (1) The Inspector is the public officer who shall administer and enforce the provisions of this article and shall exercise the duties and powers herein prescribed. The Inspector shall take and subscribe to the oath of office.
  - (2) It shall be the duty of the Inspector:
    - (a) To investigate the dwelling conditions in the City in order to determine which dwellings and dwelling units are alleged to be unfit for human habitation, and for the purpose of carrying out the objectives of this article with respect to such dwellings and dwelling units;
    - (b) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
    - (c) To keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;
    - (d) To perform such other duties as may be herein prescribed.
- (B) *Inspector; Powers.* The Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others specifically granted within this ordinance.
- (1) To investigate the dwelling conditions in the City in order to determine which dwellings therein are unfit for human habitation;
  - (2) To administer oaths and affirmations, examine witnesses, and receive evidence;
  - (3) To appoint and fix the duties of such officers, agents, and employees as the Inspector deems necessary to carry out the purposes of this article;
  - (4) To delegate any of his functions and powers under this article to other officers and other agents.
- (C) *Preliminary investigation; Notice; Hearing.*
- (1) Whenever a petition is filed with the Inspector by a public authority or by at least five residents of the jurisdiction charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector (on his own motion) that any dwelling or dwelling unit is unfit for human habitation, the Inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held

before the Inspector at a place therein fixed, not less than 10 days nor more than 30 days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

- (2) Upon the issuance of a complaint and notice of hearing pursuant to this section, the Inspector may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing attached thereto, in the Office of the Clerk of Superior Court of Randolph County, to be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. The Inspector shall cause a copy of the notice of lis pendens to be served upon the owners and parties in interest in the dwelling at the time of filing in accordance with G.S. 160A-445, as applicable. Upon compliance with the requirements of any order issued based upon such complaint and hearing the Inspector shall direct the Clerk of Superior Court to cancel the notice of lis pendens.

(D) *Procedure after hearing.*

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

If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period of time, not to exceed 90 days. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order as described in Section 9(E)(3) of this ordinance. If continued occupancy of the dwelling or dwelling unit represents a significant threat of bodily harm, the order to repair, alter, or improve the property may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made. A significant threat to bodily harm shall take into account:

- (a) The nature of the necessary repairs, alterations, or improvements;
- (b) The current state of the property;
- (c) Additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities.

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

- (2) Whenever a determination is made pursuant to subsection (1) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice and 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 45 days from the mailing of such notice shall be given before the removal or demolition by action of the Inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Inspector or 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 Inspector to wait 45 days before causing removal or demolition.

(E) *Failure to comply with order; Owner.*

- (1) If the owner fails to comply with an order to repair, alter, or improve the dwelling, the Inspector may:
  - a) Cause such dwelling to be repaired, altered, or improved, and pending such repairs, alterations, or improvements, may order such dwelling vacated and closed.
  - b) Cause to be posted 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." Occupation of a building so posted shall constitute a Class 1 misdemeanor.
- (2) If the owner fails to comply with an order to remove or demolish the dwelling, the Inspector may:
  - a) Cause such dwelling to be vacated and closed, removed, or demolished.
  - b) Cause to be posted 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.” Occupation of a building so posted shall constitute a Class 1 misdemeanor.

- (3) Unfit Order: The duties of the Inspector set forth in Section 9(E)(1) and Section 9(E)(2) shall not be exercised until the City Council, by ordinance, shall have ordered the Inspector to proceed to effectuate the purpose of this article with respect to the particular property or properties which the Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with this article. Such ordinances shall be recorded in the office of the Register of Deeds of Randolph County and shall be indexed in the name of the property owner in the grantor index.
- (4) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition, by the Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided by G.S. Chapter 160A, Article 10. If the dwelling is removed or demolished by the Inspector, he shall sell the materials of such dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court of Randolph County by the Inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(F) *Failure to comply with order; occupant.*

- (1) If any occupant fails to comply with an order to vacate a dwelling, the Inspector may file a civil action in the name of the City to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling.
- (2) The Clerk of Superior Court of Randolph County shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the City Council pursuant to Section 9(E)(3) of this article, authorizing the Inspector to proceed to vacate the occupied building, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30.

- (3) An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be taken in the nature of a summary ejectment proceeding pursuant to this section unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the City Council has ordered the Inspector to proceed to exercise his duties under Section 9(E)(1) and Section 9(E)(2) of this article, to vacate and close, or to remove and demolish the dwelling.

(G) *Service of complaints and orders.*

- (1) Complaints or orders issued by the Inspector pursuant to this article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- (2) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the City at least once no later than the time at which personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

- (H) *Illegal occupancy.* It shall be unlawful for any owner or the agent of any owner to rent or offer for rent a dwelling or part thereof upon which an order to repair, alter, or improve, or to vacate and close, has been issued until said dwelling has been brought back into conformance with this ordinance.

- (I) *Violations.* In addition to the conditions, acts, or failures to act that constitute violations specified in this article:

- (1) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.
- (2) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order had been issued pursuant to this article, to occupy or permit the

occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

- (3) It shall be unlawful for any person, without written consent of the Inspector, to remove or permit the removal of any complaint, notice, or order posted in accordance with the provision of this article.

(J) *Penalties for violations.*

- (1) Each violation of any provision of this article shall constitute a Class 3 misdemeanor, punishable by a fine of not more than \$50, as provided by G.S. 14-4, as amended. Each calendar day during which a violation continues shall constitute a separate and distinct offense.

- (2) The provisions of this article may also be enforced through any equitable or other remedy deemed appropriate by the City and permitted by law.

(K) *Alternative remedies.* Nothing in this article shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, nor shall enforcement of one remedy provided herein prevent the enforcement of the other remedies provided herein.

## Section 10: **APPEALS**

(A) *Board of Adjustment to hear appeals.*

The Board of Adjustment, hereinafter referred to as the Board, is designated as the appeals body to which appeals may be taken from any decision or order of the Inspector. Except where this article provides for different rules or procedures, the Board shall follow its rules of procedure and the Board may amend those rules to provide specifically for the housing appeals function. The Board shall perform the duties prescribed by Section 10 and shall keep an accurate record of all its proceedings.

(B) *Appeals from order of Inspector.*

- (1) An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby or by any officer, board, or commission of the City. Any appeal from the Inspector shall be taken within ten (10) days from the rendering of the decision or service of the order by filing with the Inspector and the Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, the Inspector's decision shall remain in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the



effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of the appellant's requirements would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and this section.

- (2) The Board shall fix a reasonable time for the hearing of appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney.
- (3) The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Inspector.
- (4) The Board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this article, to adapt the application of this article to the necessities of the case to the end that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done.
- (5) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(C) *Petition to Superior Court by owner.*

Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board of Adjustment may petition the Superior Court of Randolph County for an injunction restraining the Inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. 160A-446(f). The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection