

## CHAPTER 95: ABANDONED VEHICLES

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### § 95.01 DEFINITIONS.

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

**ABANDONED MOTOR VEHICLE.** A motor vehicle shall be deemed abandoned in the following circumstances:

- (1) It is left unattended upon a street or highway for longer than 12 hours in violation of a law or ordinance prohibiting parking;
  - (2) It is left unaccompanied on property owned or operated by the town for a period longer than 24 hours;
  - (3) It is left unaccompanied on any public street or highway for a period longer than seven days; or
  - (4) It is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours.
- (1973 Code, § 11.11)

**JUNKED MOTOR VEHICLE.** Whenever a motor vehicle is found to be an abandoned motor vehicle as defined above and, in addition, is found to be inoperable, or is partially dismantled or wrecked, or is more than five years old and worth less than \$100, or does not display a current license plate, it shall be deemed to be a **JUNKED MOTOR VEHICLE**.

(1973 Code, § 11.12)

#### **§ 95.02 DUTY OF OWNER TO REMOVE.**

If a motor vehicle is abandoned or junked on a public street or highway, it shall be the duty and responsibility of the owner of the motor vehicle to cause the removal thereof immediately and to pay all costs incident to the removal. It shall be unlawful for any person to allow a motor vehicle owned by him or her to remain abandoned on a public street or highway after notice has been duly given to that person to have the vehicle removed.

(1973 Code, § 11.13) Penalty, see § 10.99

#### **§ 95.03 REMOVAL BY TOWN.**

Whenever any motor vehicle is abandoned or junked on a public street or highway, or on property owned or operated by the town, or on private property, that vehicle may be removed by or under the direction of the Town Chief of Police to a storage garage or area. The vehicle shall not be removed from private property without the written request or permission of the owner, lessee, or occupant thereof, unless the same has been declared by the Building Inspector or the Board of Commissioners to be a health or safety hazard.

(1973 Code, § 11.14)

#### **§ 95.04 COSTS OF REMOVAL; NOTICE TO OWNER.**

(A) When an abandoned or junked motor vehicle is removed from private property at the request of the owner, lessee, or occupant thereof, the person at whose request the vehicle is removed shall be required to pay or otherwise indemnify the town for any expenses incurred by reason of the removal and storage of the vehicle.

(B) The owner of any vehicle removed hereunder from any public street or highway, or any property owned or operated by the town, or any private property, shall pay to the town all reasonable costs incident to the removal and storage of the vehicle and to locating the owner thereof.

(C) Written notice of each removal of an abandoned or junked vehicle and of the possible sale or disposition thereof shall be given as promptly as possible to the owner thereof at his or her last known address according to the latest registration certificate or certificate of title on file with the North Carolina Department of Motor Vehicles.

(D) Notice need not be given to the registered owner when the vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible. (1973 Code, § 11.15) Penalty, see § 10.99

#### **§ 95.05 SALE OF ABANDONED MOTOR VEHICLES; PROCEEDS OF SALE.**

(A) *Sale of abandoned motor vehicles.* If an abandoned motor vehicle is worth \$100 or more and should the owner thereof refuse to pay the aforementioned costs or should the identity or whereabouts of the owner be unknown and unascertainable after a diligent search, it shall; after being held by the town for 30 days, and after 20-days' written notice to the registered owner at his or her last known address, if his or her identity is known, and to the holders of all liens of record against the vehicle, and to the North Carolina Department of Motor Vehicles; be sold by the Chief of Police or his or her designee at public auction. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date.

(1973 Code, § 11.16)

(B) *Disposition of proceeds of sale.* The proceeds of the sale of an abandoned motor vehicle shall be paid to the Town Treasurer, who shall pay from the proceeds the costs of removal, storage, investigation, sale, and liens, in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the Town Treasurer for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the sale, the funds shall be deposited into the Town General Fund and the owner's rights therein shall be forever extinguished.

(1973 Code, § 11.17)

#### **§ 95.06 DISPOSITION OF JUNKED MOTOR VEHICLES; PROCEEDS OF SALE.**

(A) *Disposition of junked motor vehicles.*

(1) With the consent of the owner, the Chief of Police or his or her designee may dispose of any vehicle as a junked motor vehicle without holding it for any prescribed period of time. If an unclaimed abandoned motor vehicle appears to be worth less than \$100, the Chief of Police or his or her designee may dispose of the vehicle as a junked vehicle.

(2) Any unclaimed junked motor vehicle as defined by this chapter shall be held for a period of at least 15 days. The owner of the vehicle may claim his or her vehicle during the 15-day retention period by exhibiting proof of ownership to the Chief of Police and after paying all reasonable costs incident to the removal and storage of the vehicle, plus administrative expenses. If after the vehicle is held 15 days it remains unclaimed, the vehicle may be destroyed or sold at a private sale as junk. Within



15 days after final disposition of a junked motor vehicle, written notice thereof shall be given to the Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.

(1973 Code, § 11.18)

(B) *Disposition of proceeds of sale.* The proceeds of the sale of a junked motor vehicle, after all costs of removal, storage, investigation, and sale, and satisfaction of any liens of record on the vehicle have been deducted therefrom, shall be held by the Town Treasurer for 30 days and paid to the registered owner upon demand. If the owner does not appear to claim the remainder of the proceeds within 30 days after disposal of the vehicle, the funds shall be deposited into the Town General Fund and the owner's rights therein shall be forever extinguished.

(1973 Code, § 11.20)

#### **§ 95.07 DISPOSITION OF UNIDENTIFIED VEHICLES.**

Vehicles not displaying a license plate, and whose identification numbers have been removed or defaced so as to be illegible, may be destroyed or sold at a private sale, without regard to value, after being held for 48 hours.

(1973 Code, § 11.19)

#### **§ 95.08 IMMUNITY.**

Neither the town nor any person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost, or stolen vehicle for disposing of the vehicle as contemplated by this chapter.

(1973 Code, § 11.21)



## **CHAPTER 96: MINIMUM HOUSING CODE**

### **Section**

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**GENERAL REGULATIONS****§ 96.01 PREAMBLE.**

Pursuant to G.S. §§ 160-A-441—450, it is hereby found and declared that there exist in the Town of Bailey dwellings that are unfit for human habitation and dangerous and injurious to the health, safety and morals of the people of the town due to structural deterioration; lack of lighting, ventilation, and sanitary facilities; or due to other conditions rendering such dwellings unsafe or dangerous or detrimental to the welfare of the residents of the town.

(Ord. passed 9-3-1996)

**§ 96.02 SCOPE.**

(A) This chapter is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof—which are public safety, health, and general welfare—through provision of structural strength, stability, sanitation, adequate light, and ventilation; and removing hazards to life and property resulting from substandard conditions 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) The provisions of this chapter shall apply to all existing housing and to all housing hereafter constructed within the town and its planning jurisdiction. Portable, mobile, or demountable buildings or structures, including trailers, when used or intended for use for housing within the town shall be subject to the applicable provisions of this chapter. This chapter establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration, or use of buildings, equipment or facilities except as noted in this chapter.

(Ord. passed 9-3-1996)

**§ 96.03 DEFINITIONS.**

The following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

**APPROVED.** Approved by the Minimum Housing Code Enforcement Officer.

**BASEMENT.** A portion of a building which is located partly underground, 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. The term **BUILDING** shall be construed as if followed by the words "or part thereof."

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

**DETERIORATED.** That a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all the minimum standards established by this chapter at a reasonable cost in relation to its value, as determined by the findings of the Minimum Housing Code Enforcement Officer.

**DILAPIDATED.** That a dwelling is unfit for human habitation and cannot be repaired, altered, or improved to comply with all the minimum standards established by this chapter at a reasonable cost in relation to its value, as determined by the findings of the Minimum Housing Code Enforcement Officer.

**DWELLING.** Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants whether or not such building is occupied or vacant, provided that temporary housing, as hereinafter defined, shall not be regarded as a dwelling.

**DWELLING UNITS.** Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating, whether or not such unit is occupied or vacant.

**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, or trapping; or by other recognized and legal pest elimination methods approved by the Minimum Housing Code Enforcement Officer.

**FAMILY.** One or more persons living together who are related by blood, marriage, or adoption, and having common housekeeping facilities.

**FLOOR AREA.** The total area of all habitable rooms in a building or structure.

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

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

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



**MINIMUM HOUSING CODE ENFORCEMENT OFFICER.** A public officer designated by the town, as defined in G.S. § 160A-442, with a minimum of three years of housing inspection experience, who is charged with the administration and enforcement of this chapter; and who is charged with conducting hearings, including administering oaths and affirmations, examining witnesses, receiving evidence, making findings of fact, and issuing orders, as provided in the requirements of this chapter.

**MULTIPLE DWELLING.** Any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of more than two families, living independently of each other and doing their own cooking in said building, and shall include flats and apartments.

**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.

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

**PARTIES IN INTEREST.**

(1) All individuals, associations, and corporations who have interests of record in a dwelling or any who are in possession thereof; or

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

**PERSON.** Means and includes any individual, firm, corporation, association, or partnership.

**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 public or private water supply system within or adjacent to any building, structure, or conveyance; also, the practice and materials used in the installation, maintenance, extension, or alteration of stormwater, liquid waste or sewerage, and water supply systems of any premises to their connection with any point of public disposal.

**PREMISES.** A lot, plot, or parcel of land, including the building or structure thereon.

**PUBLIC AREAS.** As used in this chapter, means an unoccupied open space adjoining a building and on the same property that is permanently maintained accessible to the Fire Department and free of all encumbrances that might interfere with its use by the Fire Department.

**REQUIRED.** Required by some provision of this chapter.

**RESIDENTIAL OCCUPANCY.** Buildings in which families or households live or in which sleeping accommodations are provided. Such buildings include, among others, the following: dwellings, multiple dwellings and lodging houses, and all dormitories.

**ROOMING HOUSE.** Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not members of the family of the owner or operator.

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

**RUBBISH.** Combustible and non-combustible waste materials except garbage, and the term shall include ashes, paper, raga, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

**STAIRWAY.** One or more flights of stairs and the necessary landings and platforms connecting them to form a continuous and uninterrupted passage from one story to another in a building or structure.

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

**STRUCTURE.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term **STRUCTURE** shall be construed as if followed by the words "or part thereof."

**SUPPLIED.** Paid for, furnished or provided by, or under 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 30 consecutive days.

**UNFIT FOR HUMAN HABITATION.** As defined by § 96.60, herein.

**VENTILATION.** The process of supply and removing air by natural or mechanical means to or from any space.

**YARD.** An open, unoccupied space on the same lot with a building extending along the entire length of a street, or rear or interior lot line.

**MEANING OF CERTAIN WORDS.** When the words *DWELLING*, *DWELLING UNIT*, *ROOMING HOUSE*, *ROOMING UNIT*, or *PREMISES* are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."  
(Ord. passed 9-3-1996)

### ***MINIMUM STANDARDS—FOR BASE EQUIPMENT AND FACILITIES***

#### **§ 96.20 GENERAL.**

No person shall occupy as owner-occupied, or let or sublet to another for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, or eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements:

(A) *Sanitary facilities required.* Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition and properly connected to an approved water and sewer system.

(B) *Heating facilities.* Every unit shall have heating facilities which are properly installed, are maintained in a safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit therein to a temperature of at least 60° F. at a distance three feet above the floor during ordinary minimum winter conditions.

(Ord. passed 9-3-1996)

#### **§ 96.21 MINIMUM REQUIREMENTS FOR ELECTRICAL SYSTEM.**

No person shall occupy as owner-occupant, or let or sublet to another for occupancy, any dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, and eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements:



(A) All fixtures, receptacles, equipment, and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed and connected to the source of electric power in accordance with the North Carolina Residential Building Code.

(B) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the total load required in accordance with the North Carolina Residential Building Code.

(Ord. passed 9-3-1996)

#### **§ 96.22 GENERAL REQUIREMENTS FOR THE EXTERIOR AND INTERIOR OF STRUCTURES.**

No person shall occupy as owner-occupant, or let or sublet to another for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, and eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements:

(A) *Foundation.* The building foundation walls, piers, or other elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.

(B) *Exterior walls.* The exterior walls shall be substantially weathertight, watertight, and shall be made impervious to the adverse effects of weather and be maintained in sound condition and good repair.

(C) *Roofs.* Roofs shall be maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.

(D) *Structural supports.* Every structural element of this dwelling shall be structurally sound and show no evidence of deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.

(Ord. passed 9-3-1996)

#### **§ 96.23 ROW HOUSES.**

No person shall occupy a rooming house, or shall occupy or let to another for occupancy, any rooming unit in any rooming house, except in compliance with the provisions of every section of this chapter, and particularly the provisions of 96.20 through 96.24.

(A) *License required.* No person shall operate a rooming house unless he or she holds a valid rooming house license.

(B) *Water closet, lavatory, and bath facilities.*

(1) At least one flush water closet, lavatory basin, and bathtub or shower properly connected to a water and sewer system and in good working condition shall be supplied for each four rooms within a rooming house wherever said facilities are to be shared.

(2) All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.

(C) *Water heater required.* Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.

(D) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet for each occupant thereof.

(E) *Exit requirement.* Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by all applicable building codes.

(F) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house; and he or she shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.  
(Ord. passed 9-3-1996)

**§ 96.24 APPLICATION OF NORTH CAROLINA UNIFORM RESIDENTIAL BUILDING CODE.**

The North Carolina Uniform Residential Building Code shall govern all repairs, alterations, and/or additions to any existing structure where not specified herein.  
(Ord. passed 9-3-1996)

***MINIMUM HOUSING CODE ENFORCEMENT OFFICER***

**§ 96.35 CREATION OF PUBLIC OFFICE.**

The office of the Minimum Housing Code Enforcement Officer is hereby created. The individual who functions as the town's Building Inspector shall also serve as the Minimum Housing Code

Enforcement Officer. Until otherwise provided by the Board of Commissioners, the Minimum Housing Code Enforcement Officer shall be the officer to enforce the provisions of the chapter and to exercise the duties and powers herein prescribed. The Minimum Housing Code Enforcement Officer shall have a minimum of three years of housing inspection experience.

(Ord. passed 9-3-1996)

#### § 96.36 POWERS GENERALLY.

The Minimum Housing Code Enforcement Officer shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, without limiting the generality of the foregoing in addition to others herein granted, the following powers:

(A) *Investigations.* To investigate dwelling and building conditions in the town in order to determine which dwellings therein are unfit for human habitation and dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in this chapter.

(B) *Oaths, witnesses, and the like.* To administer oaths, affirmations, and to examine witnesses and receive evidence.

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

(D) *Delegation of functions, and the like.* To delegate any of his functions and powers under this chapter to such officers and agents as he or she may designate.

(Ord. passed 9-3-1996)

#### § 96.37 INSPECTIONS.

The Minimum Housing Code Enforcement Officer is hereby authorized and directed to make inspections in compliance with the Minimum Housing Code approved by the Board of Commissioners to determine the condition of dwellings, dwelling units, rooming units, and premises located within the town in order that he or she may perform his or her duty of safeguarding the health and safety of the occupant of dwellings and of the general public. For the purpose of making such inspections, the Minimum Housing Code Enforcement Officer is hereby authorized to enter, examine, and survey at all reasonable times, all dwellings, dwelling units, rooming units, and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit, or rooming unit and its premises at all reasonable times for the purpose of such inspection, examination, and survey. Every occupant, of a dwelling or dwelling unit



shall give the owner thereof, or his or her agent or employee, access to any part of such dwelling or dwelling unit, or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

(Ord. passed 9-3-1996)

**§ 96.38 ABATEMENT—HEARING ON CHARGES; FILING; PETITION AND CHARGES; INVESTIGATIONS; TIME AND CONDUCT OF HEARING.**

Whenever a petition is filed with the public officer or by a public authority or by at least five residents of the town charging that any dwelling is unfit for human habitation, or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his or her designated agent) not less than ten days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given a 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; and that rules of evidence prevailing in courts of law or equity shall not be controlling in hearings; before the public officer.

(Ord. passed 9-3-1996)

**§ 96.39 SERVICE OF ORDER, CONTENTS.**

If, after such notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, he or she shall state in writing his or her finding of facts in support of that determination and shall issue and cause to be served upon the owner thereof an order:

(A) If the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the building, requiring the owner, within the time specified, to repair, alter, or improve such dwelling in order to render it fit for human habitation.

(B) If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified, to remove or demolish such dwelling. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the town and the Historic District Commission determines, after a public 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. § 160A-400.14(a).

(Ord. passed 9-3-1996)

**§ 96.40 ENFORCEMENT.**

(A) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered or improved or to be vacated and closed; that the public officer may 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 misdemeanor.

(B) If the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in divisions (A) and (B) shall not be exercised until the governing body shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This chapter shall be recorded in the office of the Lee County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.

(C) (1) If the governing body shall have adopted an ordinance, or the public officer shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in § 96.39, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one 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 governing body may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(a) 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 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 90 days; or

(b) 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 50% of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.



(2) This chapter shall be recorded in the Lee County 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 this chapter, the public officer shall effectuate the purpose of the ordinance.

(D) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or demolition or removal by the public officer shall be a lien against the real property upon which the cost was incurred. If the dwelling is removed or demolished by the public officer, he or she shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order of decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

(E) If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the town 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. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten 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 public officer produces a certified copy of an ordinance adopted by the governing body authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The 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. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this division unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing body has ordered the public officer to proceed to exercise his or her duties under this chapter to vacate and close or remove and demolish the dwelling.

(F) Whenever a determination is made 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 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, 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 public officer 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 public officer to wait 45 days before causing removal or demolition.  
(Ord. passed 9-3-1996)

#### **§ 96.41 METHODS OF SERVICE.**

(A) Complaints issued by an inspector or orders issued by the Minimum Housing Code Enforcement Officer shall be served upon persons either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Minimum Housing Code Enforcement Officer in the exercise of reasonable diligence and the Minimum Housing Code Enforcement Officer shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made by publishing the same at least once in a newspaper printed and published in the municipality and no later than the time at which personal service would be required under provisions of this chapter. When service is made by publication, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order.

(B) Failure on the part of any owner or party in interest to receive or have served upon him any complaint, notice, or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person, firm, or corporation.  
(Ord. passed 9-3-1996)

#### **§ 96.42 RIGHT OF APPEAL.**

Any owner or person who is aggrieved with the ruling or decision of the Minimum Housing Code Enforcement Officer in any matter relative to the interpretation or enforcement of any of the provisions of the housing code may appeal any such decision, as outlined in G.S. § 160A-446.  
(Ord. passed 9-3-1996)

#### **§ 96.43 CONTRACT FOR REPAIRS AND DEMOLITION.**

Repairs, alterations, improvements, or demolition may be made under the supervision of the Minimum Housing Code Enforcement Officer or he or she may let the same to contract on competitive bids, or by private contract if no bids are received. Vacating and closing buildings shall be done under the supervision of the Minimum Housing Code Enforcement Officer.  
(Ord. passed 9-3-1996)

**§ 96.44 CONFLICT WITH OTHER PROVISION.**

In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety, or health provisions of this code, or ordinances or codes of the town, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

(Ord. passed 9-3-1996)

***ENFORCEMENT STANDARDS*****§ 96.60 RESIDENTIAL BUILDINGS UNFIT FOR HUMAN HABITATION.**

The Minimum Housing Code Enforcement Officer shall determine that a resident building is unfit for human habitation if he or she finds that any of the following conditions exist in such building:

(A) Interior walls or vertical studs which seriously list, lean, or buckle to such an extent as to render the building unsafe.

(B) Supporting members or members which show 33% or more damage or deterioration; or non-supporting, enclosing, or outside walls or covering which show 50% or more of damage or deterioration.

(C) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purposes used.

(D) Such damage by fire, wind, or other causes as to render the building unsafe.

(E) Dilapidation, decay, unsanitary conditions, or disrepair which is dangerous to the health, safety, or welfare of the occupants or other people of the town.

(F) Inadequate facilities for egress in case of fire or panic.

(G) Defects significantly increasing the hazards of fire, accident, or other calamities.

(H) 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 town.

(I) Lack of proper electrical, heating, or plumbing facilities required by this chapter which constitutes a health or a definite safety hazard.

(Ord. passed 9-3-1996)