

Chapter 6 BUILDINGS AND BUILDING REGULATIONS¹

ARTICLE I. IN GENERAL

Sec. 6-1. Building inspections.

All building inspections and permits shall be obtained from Nash County. Before building permits are issued, a zoning permit must be obtained from the town zoning administrator at the town hall. All changes to structures or uses require a zoning permit. For further information about zoning, see chapter 26.

(Ord. of 3-2-2020)

Secs. 6-2—6-21. Reserved.

ARTICLE II. MINIMUM HOUSING AND NONRESIDENTIAL BUILDINGS AND STRUCTURES CODE

DIVISION 1. GENERALLY

Sec. 6-22. Preamble.

- (a) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation and/or are inimical to the welfare, and dangerous and injurious to the health, safety, and morals of the people of the town due to:
- (1) Dilapidation, defects increasing the hazards of fire, accidents, or other calamities;
 - (2) Lack of ventilation, light or sanitary facilities; and
 - (3) Other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety, or morals, or otherwise inimical to the welfare of the residents of the town.
- (b) Pursuant to G.S. 160A-439, it is hereby declared that there exist in the town nonresidential buildings and structures that fail to meet the minimum standards of maintenance, sanitation, and safety, as established by the town.

(Ord. of 3-2-2020)

¹Editor's note(s)—Ord. of 3-2-2020 amended Ch. 6 in its entirety to read as herein set out. Former Ch. 6 pertained to similar subject matter and derived from prior Code, ch. XI, §§ 1, 3—5; Ord. of 2-8-1988, §§ 1-101—1-104, 2-201—2-207, 3-301—3-310, 4-402; and Ord. of 4-21-2010, §§ 1-101—1-104, 2-201—2-207, 3-301—3-310, 4-402. See also the Code Comparative Table for a list of repealed sections.

Sec. 6-23. Scope.

- (a) This article 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 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 nonresidential buildings and structures and also dwellings, apartment houses, rooming houses, or buildings, structures, or premises used as such.
- (b) The provisions of this article shall apply to all nonresidential buildings and structures and also to all dwellings and dwelling units (including but not limited to rooming houses) within the town. 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 article. This article 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 provided in this article.
- (c) As authorized by G.S. 160A-360 and 160A-441, these standards shall apply to all dwellings and dwelling units within the corporate limits of the town and the extraterritorial jurisdiction of the town. As authorized by G.S. 160A-439, these standards shall apply to all nonresidential buildings and structures within the corporate limits of the town only; they shall not apply to nonresidential buildings and structures located in the extraterritorial jurisdiction of the town.

(Ord. of 3-2-2020)

Sec. 6-24. Definitions.

- (a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alter or alteration means any change or modification in construction or occupancy.

Approved means approved by the zoning official.

Basement means 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 means 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 means 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 means that a nonresidential building or structure, dwelling, or dwelling unit is unfit for human habitation or occupancy and can be repaired, altered, or improved to comply with all the minimum standards established by this article at a cost of 50 percent or less than the estimated value of the building, structure, or unit, as determined by findings of the zoning official.

Dilapidated means that a nonresidential building or structure, dwelling, or a dwelling unit is unfit for human habitation or occupancy and cannot be repaired, altered, or improved to comply with all the minimum standards established by this article at a cost of 50 percent or less of the estimated value of the building, structure, or unit, as determined by findings of the zoning official.

Dwelling means 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 unit means 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 means 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 zoning official.

Family means one or more persons living together, who are related by blood, marriage, or adoption, and having common housekeeping facilities.

Floor area means the total area of all habitable rooms in a building or structure.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Habitable room means 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 connecting corridors, closets, and storage spaces. In the case of nonresidential structures, "habitable" means any space intended to be used or occupied by persons.

Infestation means the presence, within or around a dwelling, of 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.

Multiple dwelling means 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 the said building, and includes flats and apartments.

Occupant means any person over one year of age, living, sleeping, cooking, or eating in, or having actual possession of a nonresidential building or structure, dwelling unit, or rooming unit.

Openable area means that part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

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

Owner means the holder of the title in fee simple and every mortgagee of record.

Parties in interest means all individuals, associations, and corporations who have interests of record in a nonresidential building or structure, dwelling, or dwelling unit or any who are in possession thereof; or 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 article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Person means and includes any individual, firm, corporation, association, or partnership.

Plumbing means 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 means a lot, plot, or parcel of land, including the building or structure thereon.

Public areas, as used in this article, 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 means required by some provision of this article.

Residential occupancy means 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 rooming houses, and all dormitories.

Rooming unit means 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.

Rooming house means 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.

Rubbish means combustible and noncombustible waste materials except garbage, and includes ashes, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

Stairway means one or more flights or 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 means 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 means 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 means paid for, furnished, or provided by, or under control of the owner or operator.

Temporary housing means 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 means as is defined by section 6-109.

Vacant industrial warehouse means any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

Vacant manufacturing facility means any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

Ventilation means the process of supply and removing air by natural or mechanical means to or from any space.

Yard means 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.

Zoning official means a public officer designated by the town, who is charged with the administration and enforcement of this article. The tasks of conducting inspections and conducting hearings may be performed by one or more persons.

(b) *Meaning of certain words.* When the words "dwelling," "dwelling unit," "rooming house," "rooming unit," or "premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. of 3-2-2020)

Secs. 6-25—6-52. Reserved.

DIVISION 2. MINIMUM STANDARDS FOR EQUIPMENT AND FACILITIES

Sec. 6-53. Application of state building code.

The North Carolina State Building Code shall govern all repairs, alterations, and/or additions to any existing building or structure where not specified in this division.

(Ord. of 3-2-2020)

Sec. 6-54. General requirements for dwellings and dwelling units.

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:

- (1) *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. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.
- (2) *Location of sanitary facilities.* All required sanitary facilities shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower, and lavatory in at least one bathroom shall be located in a room affording privacy to the user, and such rooms shall have minimum floor space of 30 square feet.
- (3) *Hot and cold water supply.* Every dwelling unit shall have connected to the kitchen sink, lavatory, and tub or shower 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.
- (4) *Heating facilities.*
 - a. Every dwelling unit shall have heating facilities which are properly installed, are maintained in 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 degrees Fahrenheit at a distance three feet above the floor during ordinary minimum winter conditions.
 - b. Where a gas or electric central heating system is not provided, such dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, or gas vents, whereby heating appliances may be connected so as to furnish a minimum temperature of 60 degrees Fahrenheit, measured at a point three feet above the floor during ordinary minimum winter conditions, and in safe and proper working order.
- (5) *Cooking and heating equipment.* All cooking and heating equipment and facilities shall be installed in accordance with the appropriate building, gas, or electrical code and shall be maintained in a safe and good working condition.
- (6) *Garbage storage or disposal facilities.* Every dwelling unit of multifamily dwelling shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal

unit (mechanical sink grinder) in each dwelling unit; an incinerator unit, to be approved by the zoning official, in the structure for the use of the occupants of each dwelling unit; or an approved outside garbage can.

(Ord. of 3-2-2020)

Sec. 6-55. Minimum requirements for light and ventilation in dwellings and dwelling units.

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:

- (1) *Bathroom.* Every bathroom shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms.
- (2) *Electrical lights and outlets required.* Every dwelling shall be adequately and safely wired for electrical lights and convenience receptacles. Every habitable room and hallway shall have provisions for adequate lighting and other necessary electrical service.
- (3) *Light in public halls and stairways.* Every public hall and stairway in every building containing multiple dwellings shall be adequately lighted at all times.

(Ord. of 3-2-2020)

Sec. 6-56. Minimum requirements for electrical systems in dwellings and dwelling units.

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, or eating therein, nor shall any vacant dwelling be permitted to exist following requirements:

- (1) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe and capable of being used, and installed and connected to the source of electric power in accordance with the state building code.
- (2) 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 state building code.

(Ord. of 3-2-2020)

Sec. 6-57. General requirements for the exterior and interior of structures in dwellings and dwelling units.

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, or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements:

- (1) *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.
- (2) *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.
- (3) *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.

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- (4) *Means of egress.* Every dwelling unit shall have two safe, unobstructed means of egress with minimum ceiling height of seven feet leading to a safe and open space at ground level.
 - (5) *Stairs.* Every inside and outside stair 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.
 - (6) *Porches and appurtenances.* Every outside 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.
 - (7) *Windows and doors.* Every window, exterior door, and basement or cellar door and hatchway shall be substantially weathertight, watertight, and rodentproof; and shall be kept in sound working condition and good repair.
 - (8) *Windows to be glazed.* Windowpanes or an approved substitute shall be maintained without cracks or holes which allow passage of air.
 - (9) *Window sash.* Window sash shall be properly fitted and weathertight within the window frame.
 - (10) *Hardware.* Every exterior door shall be provided with proper hardware and maintained in good condition.
 - (11) *Door frames.* Every exterior door shall fit reasonably well within its frame so as to operate as designed and to substantially exclude rain and wind from entering the dwelling building.
 - (12) *Accessory structures.* Garages, storage buildings, and other accessory structures shall be maintained and kept in good repair and sound structural condition.
 - (13) *Interior floors, walls, and partitions.* Every floor, wall, or partition 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.
 - (14) *Ceilings.* Every interior 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.
 - (15) *Structural supports.* Every structural element of the 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.
 - (16) *Protective railings.* Protective railings shall be required on any unenclosed structure as required by the state building code. Interior stairs and stairwells shall have handrails in accordance with the state building code. Handrails or protective railings shall be capable of bearing normally imposed loads and be maintained in good condition.

(Ord. of 3-2-2020)

Sec. 6-58. Minimum space and use requirements in dwellings and dwelling units.

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:

- (1) *Required space in dwelling unit.* Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor area per each additional occupant.
- (2) *Required space in sleeping rooms.* In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space,

and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.

- (3) *Minimum ceiling height.* At least one-half of the floor area of every habitable room, foyer, hall, or corridor shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than seven feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- (4) *Occupancy of dwelling unit below grade.* No basement or cellar space shall be used as a habitable room or dwelling unit unless meeting all specifications for habitable rooms.

(Ord. of 3-2-2020)

Sec. 6-59. Sanitation requirements in dwellings and dwelling units.

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:

- (1) *Sanitation.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (2) *Cleanliness.* Every owner or occupant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies or controls or which is provided for his particular use.
- (3) *Garbage disposal.* Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and sanitary manner by placing it in the garbage disposal facilities or garbage or rubbish storage containers.
- (4) *Extermination.* Every occupant of a single dwelling and every owner of a building containing two or more dwelling units shall be responsible for the extermination of any insects, rodents, or other pests within the building or premises.
- (5) *Use and operation of supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(Ord. of 3-2-2020)

Sec. 6-60. Rooming 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 article and particularly the provisions of sections 6-54 and 6-58.

- (1) *License required.* No person shall operate a rooming house unless he holds a valid rooming house license.
- (2) *Water closet, lavatory, and bath facilities.*
 - a. 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.

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- b. 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.
- (3) *Water heater required.* Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.
- (4) *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.
- (5) *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.
- (6) *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 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. of 3-2-2020)

Sec. 6-61. Dwellings and dwelling units unfit for human habitation.

- (a) In addition to the other standards set forth in this article, the zoning official shall determine that a dwelling and/or dwelling unit is unfit for human habitation if he finds that any of the following conditions exist in such building:
- (1) Interior walls or vertical studs which seriously list, lean, or buckle to such an extent as to render the building unsafe.
 - (2) Supporting members or members which show 33 percent or more damage or deterioration, or nonsupporting, enclosing or outside walls or covering which show 50 percent or more of damage or deterioration.
 - (3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose 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 in the town.
 - (6) Inadequate facilities 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 town.
 - (9) Lack of proper electrical, heating, or plumbing facilities required by this article which constitutes a health or a definite safety hazard.

(Ord. of 3-2-2020)

Sec. 6-62. Minimum standards for nonresidential dwellings and structures.

- (a) The minimum standards of habitability set forth in this article for dwellings and dwelling units shall also apply to nonresidential buildings and structures, except to extent that such standards do not apply to nonresidential buildings and structures pursuant to the state building code. For example, minimum cooking facilities standards would not apply to a nonresidential building that has no kitchen.

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- (b) Additionally, no nonresidential building or structure shall be so poorly maintained as to jeopardize the safety or health of its occupants or members of the general public or otherwise fail to meet all other minimum standards of the state building code.

(Ord. of 3-2-2020)

Secs. 6-63—6-80. Reserved.

DIVISION 3. INSPECTIONS

Sec. 6-81. Creation of public officers.

The offices of the housing inspector and hearing officer are hereby created. The board of commissioners will appoint these two public officers on an annual basis until otherwise provided by the board of commissioners, the minimum housing hearing officer and/or the minimum housing inspector shall be the officer to enforce the provisions of the article and to exercise the duties and powers herein prescribed.

(Ord. of 2-8-1988, § 3-301; Ord. of 4-21-2010, § 3-301)

Sec. 6-82. Powers.

The zoning official and/or hearing officer shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including, without limiting the generality of the foregoing in addition to others herein granted, the following powers:

- (1) *Investigations.* To investigate dwelling and building conditions in the town in order to determine which buildings, structures, dwellings, and/or dwelling units are unfit for human habitation and dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in this article.
- (2) *Oaths, witnesses, etc.* To administer oaths, affirmations, and to examine witnesses and receive evidence.
- (3) *Right of entry.* To enter upon and within premises and dwellings for the purpose 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 and shall otherwise be in accordance with provisions of applicable law.
- (4) *Delegation of functions, etc.* To delegate any of his functions and powers under this article to such officers and agents as he may designate.

(Ord. of 3-2-2020)

Sec. 6-83. Inspections.

The zoning official is hereby authorized and directed to make inspections in compliance with this article, to determine the condition of occupied buildings and structures in order that he may perform his duty of safeguarding the health and safety of the general public and property. For the purpose of making such inspections, the zoning official is hereby authorized to enter, examine and survey at all reasonable times all occupied structures. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

(Ord. of 3-2-2020)

Sec. 6-84. Abatement; hearing on charges; filing petition and charges; investigation; time and conduct of hearings.

- (a) *Dwellings and dwelling units.* Whenever a petition is filed with the hearing officer by at least five residents of the town charging that any structure is in violation of this article, or whenever it appears to the zoning official by his own motion that any dwelling or dwelling unit is in violation of this article, the zoning official, shall conduct an preliminary investigation of the premises.
- (b) *Nonresidential buildings and structures.* Whenever it appears to the zoning official that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this division, the zoning official shall undertake a preliminary investigation.
- (c) If the zoning official's preliminary investigation discloses a basis for such charges, the zoning official shall issue and cause to be served upon the owner of the parties in interest in such structures and including lien holders, if any, as shown by the records of the register of deeds of the county, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the hearing officer (or his designated agent) at a designated place not less than ten days nor more than 30 days after the serving of such complaint. 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 affixed in the complaint; and that rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the hearing officer.
- (d) *Notice of lis pendens.* Upon the issuance of a complaint and notice of hearing or an order pursuant section 6-85, the hearing officer shall file a notice of lis pendens, with a copy of the complaint and notice of hearing or order attached thereto, in the office of clerk of the county superior court. When a notice of lis pendens and a copy of the complaint and notice of hearing or order is filed with the clerk of superior court, it shall be indexed and cross-indexed in accordance with the indexing procedures of G.S. 1-117. From the date and time of indexing, the complaint and notice of hearing or order shall be binding upon the successors and assigns of the owners of and parties in interest in the building or dwelling. A copy of the notice of lis pendens shall be served upon the owners and parties in interest in the building, structure, dwelling, or dwelling unit at the time of filing in accordance with section 6-87. The notice of lis pendens shall remain in full force and effect until cancelled. The notice of lis pendens shall be cancelled when the zoning official determines that a property has been brought into full compliance with this article. Upon receipt of notice from the town, the clerk of superior court shall cancel the notice of lis pendens.

(Ord. of 3-2-2020)

Sec. 6-85. Service of order; contents.

If, after such notice and hearing, the hearing officer determines that the nonresidential building, structure or dwelling or dwelling unit under consideration is unfit for human habitation in accordance with the standards herein set forth, he shall state in writing his finding of facts in support of such determination, stating whether said nonresidential building, structure, dwelling or dwelling unit is deteriorated or dilapidated, and shall issue and cause to be served upon the owner thereof an order:

- (1) If deteriorated, the order shall require the owner, within a specified period of time, to repair, alter, or improve the building, structure, or unit so as to render it fit for human habitation.

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- (2) If dilapidated, the order shall require the owner, within a specified period of time, to either repair, alter, or improve such building, structure, or unit, so as to bring it into compliance with the standards described herein, or to demolish and remove such building, structure, or unit.

The order shall state that the failure to make timely repairs as directed in the order shall make the building, structure, dwelling, or dwelling unit subject to the issuance of an unfit ordinance by the board of commissioners under section 6-87.

(Ord. of 3-2-2020)

Sec. 6-86.1. Limitations on orders for dwellings and dwelling units.

- (a) The order may require that a dwelling or dwelling unit be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, 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 18 or occupants with physical or mental disabilities.
- (b) Notwithstanding any other provision of law, if the dwelling or dwelling unit 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).
- (c) Notice to affordable housing organizations. Whenever a determination is made pursuant to this subsection that a dwelling or dwelling unit must be vacated and closed, or removed or demolished, under the provisions of section 6-85, 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 zoning official, 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 hearing officer or town 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 hearing officer to wait 45 days before causing removal or demolition.
- (d) Abandoning intent to repair.
- (1) If the board of commissioners has adopted an ordinance described in section 6-87 or the hearing officer has issued an order ordering a dwelling to be repaired or vacated and closed, as provided in section 6-85, and if the dwelling has been vacated and closed for a period of one year pursuant to the ordinance or order, then the board of commissioners may make findings that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling or dwelling unit in order to render it fit for human habitation and that the continuation of the dwelling or dwelling unit 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. Upon make said findings, the board of commissioners 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 or dwelling unit to render it fit for human habitation can be made at a cost not exceeding 50 percent of the then current value of the

dwelling or dwelling unit, the ordinance shall require that the owner either repair or demolish and remove the dwelling or dwelling unit within 90 days; or

- b. If it is determined that the repair of the dwelling or dwelling unit to render it fit for human habitation cannot be made at a cost not exceeding 50 percent of the then current value of the dwelling or dwelling unit, the ordinance shall require the owner to demolish and remove the dwelling or dwelling unit within 90 days.
- (2) This ordinance shall be recorded in the office of the county 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 ordinance, the zoning official shall effectuate the purpose of the ordinance.

(Ord. of 3-2-2020)

Sec. 6-86.2. Limitations on orders for nonresidential buildings and structures.

- (a) Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the board of commissioners determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards of this division.
- (b) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.
- (c) Abandoning intent to repair.
 - (1) If the board of commissioners has adopted an ordinance described in section 6-87 or the hearing officer has issued an order requiring the nonresidential building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the board of commissioners may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the town in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the board of commissioners may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:
 - a. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to 50 percent of its then current value, the ordinance shall require that the owner shall begin work to either repair or demolish and remove the building or structure within 90 days; or
 - b. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds 50 percent of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

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- (2) In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the board of commissioners may take action under this subsection.
 - (3) The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located 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 zoning official shall effectuate the purpose of the ordinance.

(Ord. of 3-2-2020)

Sec. 6-87. Enforcement.

(a) *Ordinance adopted by the board of commissioners.*

- (1) If the owner fails to comply with an order issued pursuant to section 6-85, the hearing officer may refer the matter to the board of commissioners. The board of commissioners may, by ordinance, order the hearing officer to proceed to effectuate the purpose of this article with respect to the particular property or properties which the hearing officer shall have found to be unfit for human habitation and which property or properties shall be described in such ordinance. The ordinance shall direct the zoning official to take any action as was directed in the zoning official's order. No such ordinance shall be adopted to require demolition of a nonresidential building or structure, dwelling, or dwelling unit 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 county register of deeds and shall be indexed in the name of the property owner in the grantor index.
- (2) *Residential placarding.* For an ordinance pertaining to a dwelling or dwelling unit, the ordinance may include an instruction directing the zoning official to post a placard on the main entrance 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) *Nonresidential placarding.* For an ordinance pertaining to a nonresidential building or structure, the ordinance may include an instruction directing the zoning official to post a placard on the main entrance of the building or structure with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.
- (4) *Civil penalties.* For an ordinance pertaining to a nonresidential building or structure, dwelling, or dwelling unit, the board of commissioners may direct the zoning official to impose civil penalties against any person or entity that fails to comply with an order issued pursuant to section 6-85. The imposition of civil penalties shall be in accordance with procedures set forth in Code of Ordinances section 26-357.

- (b) *Summary ejectment.* If any occupant fails to comply with an order to vacate a nonresidential building or structure, dwelling, or dwelling unit, the public officer may, with approval from the board of commissioners, file a civil action in the name of the town to remove such occupant. The action to vacate the premises 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 pursuant to subdivision (5) 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 premises 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 nonresidential building or structure, dwelling, or dwelling unit who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph 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 duties under this section to vacate and close or remove and demolish the nonresidential building or structure, dwelling or dwelling unit.

- (c) *Receivership.* The board of commissioners may petition the county superior court for the appointment of a receiver to rehabilitate, demolish, or sell a vacant building, structure, or dwelling in accordance with the procedure set forth in G.S. 160A-439.1.
- (d) 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, nor shall enforcement of one remedy provided herein prevent the enforcement of the other remedies provided herein.

(Ord. of 3-2-2020)

Sec. 6-88. Methods of service.

- (a) Complaints or orders issued by the zoning official pursuant to an ordinance adopted under 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.
- (b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the zoning official 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 zoning official 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 town at least once no later than the time at which personal service would be required under the provisions of this part. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Ord. of 3-2-2020)

Sec. 6-89. Right of appeal.

Any owner or person who is aggrieved with the ruling or decision of the hearing officer in any matter relative to the interpretation or enforcement of any of the provisions of this article may appeal any such decision, as outlined in G.S. 160A-446.

(Ord. of 3-2-2020)

Sec. 6-90. Lien on premises; contract for repairs, etc.

- (a) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the town 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 in G.S. ch. 160A, art. 10.
- (b) If the real property upon which the cost was incurred is located within the corporate limits of the town, then the amount of the cost is also a lien on any other real property of the owner located within the town limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
- (c) If the building or structure is removed or demolished by the town, the zoning official shall sell the materials of the building or structure, and any personal property, fixtures or appurtenances found in or attached to the building or structure, 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 zoning official, 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.

(Ord. of 3-2-2020)

Sec. 6-91. Conflict with other provisions.

In any case where a provision of this article 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. of 3-2-2020)

Secs. 6-92—6-108. Reserved.

DIVISION 4. UNSAFE BUILDINGS

Sec. 6-109. Residential buildings unfit for human habitation.

- (a) The housing inspector shall determine that a resident building is unfit for human habitation if he finds that any of the following conditions exist in such building:
 - (1) Interior walls or vertical studs which seriously list, lean, or buckle to such an extent as to render the building unsafe.
 - (2) Supporting members or members which show 33 percent or more damage or deterioration, or nonsupporting, enclosing or outside walls or covering which show 50 percent or more of damage or deterioration.
 - (3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose 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 in the town.

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- (6) Inadequate facilities 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 town.
 - (9) Lack of proper electrical, heating, or plumbing facilities required by this article which constitutes a health or a definite safety hazard.
- (b) Irrespective of the conditions in subsection (a) of this section, a residential dwelling unit shall be construed by the housing inspector to be unfit for human habitation, and he shall so find if such dwelling unit contains more than seven separate types of violations of any of the minimum standards set forth in this article.

(Ord. of 2-8-1988, § 4-402; Ord. of 4-21-2010, § 4-402)

Secs. 6-110—6-131. Reserved.

ARTICLE III. PROPERTY NUMBERING SYSTEM

Sec. 6-132. Numbering system for addresses assigned by the town.

- (a) All houses, businesses, vacant lots and other structures in town shall have a numerical address assigned by the town. These addresses should be visible to police and other emergency service vehicles. Main Street is designated as the north-south axis and Pine Street is hereby designated as the east-west axis and all avenues, streets, and alleys running north and south shall be numbered from the east-west axis consecutively to the corporate limits of the extremity of such avenue, alley, or street. Avenues, streets, or alleys running generally east and west shall be numbered from the north-south axis in the same manner. Where possible, 100 numbers shall be allowed to each block so that the number of each consecutive block shall commence with consecutive hundreds and one.
- (b) Odd numbers shall be assigned to the west side of the street on all north-south street and even numbers to the east side. On east-west streets, odd numbers shall be assigned to the south side of the street and even numbers to the north side.

(Ord. of 3-2-2020)

Sec. 6-133. Owners to display numbers.

Every property owner shall display the property number conspicuously either on the structure or on a stake at the property where emergency personnel can easily read the numbers at all times.

(Ord. of 3-2-2020)

Sec. 6-134. Numbers of future buildings.

All residences and business buildings erected after the adoption of the ordinance from which this article is derived shall be assigned a number in accordance with the property numbering system as detailed in section 6-132.

(Ord. of 3-2-2020)

