



MINIMUM HOUSING AND ABANDONED STRUCTURES CODE

**CUMBERLAND COUNTY
NORTH CAROLINA**

ORIGINALLY ADOPTED: FEBRUARY 22, 1979
WITH AMENDMENTS THROUGH: SEPTEMBER 3, 2024

As adopted in Chapter 4 of the Cumberland County Code of Ordinances

Minimum Housing and Abandoned Structures Code

TABLE OF CONTENTS

DIVISION 1 GENERALLY

	<u>Page</u>
SEC. 4-66. FINDING AND PURPOSE.....	3
SEC. 4-67. DEFINITIONS.....	3
SEC. 4-68. CONFLICT WITH OTHER PROVISIONS.....	8
SEC. 4-69. DUTIES AND LIMITATION OF LIABILITY OF PUBLIC OFFICER.....	8
SEC. 4-70. BOA TO SERVE AS HOUSING APPEALS BOARD.....	9

DIVISION 2 MINIMUM STANDARDS AND REQUIREMENTS

SEC. 4-71. COMPLIANCE.....	10
SEC. 4-72. SPACE AND USE STANDARDS.....	10
SEC. 4-73. EXIT STANDARDS.....	12
SEC. 4-74. PLUMBING STANDARDS.....	12
SEC. 4-75. HEATING STANDARDS.....	13
SEC. 4-76. ELECTRICAL STANDARDS.....	15
SEC. 4-77. LIGHT AND VENTILATION STANDARDS.....	15
SEC. 4-78. STRUCTURAL STANDARDS.....	16
SEC. 4-79. PROPERTY MAINTENANCE.....	21
SEC. 4-80. ROOMING HOUSE EXCEPTIONS.....	21
SEC. 4-81. REQUIREMENTS OF OCCUPANTS.....	22
SEC. 4-82. LIABILITY, RESPONSIBILITY OF OWNER.....	23

DIVISION 3 ENFORCEMENT

SEC. 4-83. PROCEDURE.....	25
SEC. 4-84. RIGHTS OF APPEAL TO BOA AND SUPERIOR COURT.....	28
SEC. 4-85. VIOLATIONS, PENALTIES, AND REMEDIES.....	29
SEC. 4-86. EMERGENCY ENFORCEMENT PROCEDURES.....	32
SEC. 4-87. TERRITORIAL JURISDICTION.....	34

DIVISION 1. GENERALLY

Sec. 4-66. Finding and purpose.

(a) Pursuant to N.C.G.S. § 160D-1201, the Board of Commissioners of Cumberland County hereby finds that there exist in the planning and development regulation jurisdiction of the County:

- (1) dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light, or sanitary facilities; accumulations of garbage, trash or rubbish on the premises; other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the County; and
- (2) abandoned structures that create a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities.

(b) The Board of Commissioners of Cumberland County further finds that the existence and occupation of dwellings that are unfit for human habitation and abandoned structures that create a health or safety hazard are inimical to the welfare and dangerous and injurious to the health and safety of the people of the County, and a public necessity exists for the repair, closing, or demolition of such dwellings and abandoned structures.

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-67. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

Abandoned structure means a structure of any type that is in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, or fire or safety hazard; to be a danger to children; or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance. Abandonment may be evidenced by, but not limited to, the owner, tenant, or their agent allowing any one or more of the following conditions to occur and remain in place for more than six months:

- (1) Overgrown weeds or vegetation, or the accumulation of trash, garbage, and refuse of any sort on the premises to such extent that the premises constitutes harborage for insects or vermin or a fire hazard; or
- (2) The structure is not properly boarded up or secured, or has broken windows, open doors, gates, or other openings which make the structure or premises

- accessible to trespassers, vagrants, criminals, or other unauthorized persons; or
- (3) The structure has roofs or walls which have buckled or caved in and left to remain unsecured; or
 - (4) Demolition of the structure was commenced and stopped leaving portions of the structure standing; or
 - (5) Failing to accept or respond to any notices of violations or administrative hearings issued by code enforcement officials of the county's Planning and Inspections Department, Office of the Fire Marshal, or Public Health Department.

Accessory building or accessory structure means a building or structure the use of which is incidental to that of the main building or structure, and which is located on the same lot or on a contiguous lot.

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

Apartment 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 three or more families living independently of each other in dwelling units.

Article means this Article IV, "Minimum Housing and Abandoned Structures Code," of Chapter 4 of the Cumberland County Code.

Basement means a story with 50 percent or more of its cubical content below finish grade.

Building 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 "building" shall be construed as if followed by the words "or part thereof."

Ceiling height means the clear vertical distance from the finished floor to the finished ceiling.

Demolish means the demolition and removal of the entire building, leaving the property free and clear of any debris, and without holes or pockets which may retain water.

Dwelling means any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, but does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

Exit means a clear and unobstructed way of departure from the interior of a building or structure to the exterior at street or grade level.

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, trapping or any other recognized and legal pest elimination methods approved by the public officer.
(Ord. of 6-21-21)

Family means an individual; two or more persons related by blood, marriage or law, or a group of not more than any five persons living together in a dwelling unit.

Garbage means the animal and vegetable refuse resulting from the handling, preparation, cooking and consumption of food, including the minimum amount of liquid necessarily incidental thereto.

Garbage receptacle means a durable, rust resistant, non-absorbent, watertight, and rodent proof container with an insect tight lid that is large enough to contain a week's worth of refuse, unless more than one receptacle is used.
(Ord. of 4/16/12; Ord. of 6-21-21)

Habitable space or 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, pantries, foyers, communicating corridors, closets, or storage spaces.

Hearing officer means the public officer or his designated agent.
(Ord. of 6-21-21)

Housing (See "Dwelling").

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

Infestation means the presence within or around housing of any insects, rodents or other pests in such numbers as to constitute a threat or deterioration to the housing or a hazard to the health or physical well-being of the occupants.

Manufactured home means a manufactured building designed to be used exclusively as a single-family dwelling, which has been constructed and labeled indicating compliance with the Department of Housing and Urban Development (HUD) administered national

Manufactured Housing Construction and Safety Act of 1974, as amended.
(Ord. of 4/16/12)

Multifamily means a building or structure occupied or intended for occupancy as the home or residence of more than two families, living independently of each other, and doing their own cooking within their respective housing units.

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

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

Parties in interest means all individuals, associations, and corporations that have interests of record in a dwelling or abandoned structure and any that are in possession of a dwelling or abandoned structure.

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

Plumbing means and includes the water supply and distribution pipes, plumbing fixtures, supports and appurtenances; soil, waste, and vent pipes; sanitary drains and building sewers to an approved point of disposal.

Premises means a lot, plot, or parcel of land, including the buildings or structures thereon.

Public space means that space within or about any structure which is open to use or access by the general public.

Public authority means any public authority for housing or any officer who is in charge of any department, or branch of the government of the town, city, county or State relating to health, fire, building regulations, or other activities concerning dwellings and abandoned structures in the county.

Public officer means the Cumberland County Director of Planning and Inspections, or his or her designee, or employee whose assigned duties include the enforcement of provisions of this article.

(Ord. of 6-21-21)

Removal means the demolition and removal of the entire structure, leaving the property free and clean of debris, and without holes or pockets which may retain water.

Residential building means any building or structure, or portion thereof, which is used,

or designed or intended to be used, for human habitation, including living, sleeping, cooking and eating or any combination thereof.

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.

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.

Rubbish means combustible and noncombustible waste materials, except garbage. The term shall include, but not be limited to, combustible material, wood, paper, rags, cartons, boxes, tires, mattresses, tree branches, yard trimmings, metals, glass, crockery, furniture or appliances stored in the open which are not intended for outdoor use and including immobilized vehicles or parts thereof.

Story means that portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next 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."

Substandard means any condition existing in any housing or structure which does not meet the standards of fitness of this article.

Tenant means a person, partnership, firm or corporation occupying or using a building, premises or any part or parts thereof owned by another.

Unfit for human habitation means any of those certain conditions that exist as set forth under section 4-86.

Ventilation means the adequate supply and removal of air to and from a space through windows, skylights, doors, louvers, grills, ducts or other similar devices.

Words having certain meanings. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," or "premises" are used in this article, they shall be construed as though they are followed by the words "or any part thereof."

(Ord. of 6-15-98)

Sec. 4-68. Conflict with other provisions.

In the event any provision, standard or requirement of this article is found to conflict with any provision of any other ordinance or code of the county, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the county shall prevail.

(Ord. of 6-15-98)

Sec. 4-69. Duties and limitation of liability of public officer.

The public officer is hereby designated to exercise the powers herein prescribed. The public officer shall have such powers as may be necessary to carry out and effectuate the purpose and provisions of this article, including, without limiting the generality of the foregoing, the following powers in addition to others herein granted:

- (1) To investigate, inspect, and determine which buildings, dwellings, or dwelling units are substandard and/or unfit for human habitation, and those which pose an imminent threat of bodily harm to occupants of a building, dwelling, or a dwelling unit, or any person upon the premises.
- (2) To take such action alone or together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation or removal of buildings and abandoned structures which are substandard and/or unfit or otherwise in violation of this article.
- (3) To take such action alone or together with other appropriate departments or agencies, public and private, as may be necessary to eliminate vegetation overgrowth, clear unauthorized dump sites, or correct other environmental conditions which are inimical to public well-being and prevents harboring of rodents, insects, other similar pests.
- (4) To serve as hearing officer, administer oaths and affirmations, examine witnesses and receive evidence.
- (5) To enter upon premises for the purpose of making examinations and inspections, provided such entries shall be made in accordance with this article and state law, and shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.
- (6) To appoint and fix the duties of such officers, agents and employees as necessary to assist in carrying out the purposes of this article and to delegate any of their functions and powers to such officers, agents and employees.
- (7) To determine that buildings and accessory structures are substandard and/or unfit for human habitation if the public officer finds, based on the requirements set forth in this article, that conditions exist in such structures or accessory structures which are dangerous or injurious to the health, safety or well-being of the

occupants of such building, the occupants of neighboring buildings, or other residents of the county and environs. Such conditions include, but are not limited to, lack of adequate ventilation, light or sanitary facilities, dilapidation, disrepair, structural defects, and uncleanliness.

- (8) Except as may otherwise be provided by statute or local law or ordinance, no public officer, agent or employee of the county charged with enforcement of this article shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties under this article.

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-70. Board of Adjustment to serve as housing appeals board.

The Cumberland County Board of Adjustment shall serve as the housing appeals board to which appeals may be taken from decisions or orders of the public officer as provided in section 4-84. The board shall perform the duties prescribed by this article and shall keep an accurate record of its proceedings.

(Ord. of 6-15-98; Ord. of 5-17-21)

DIVISION 2. - MINIMUM STANDARDS AND REQUIREMENTS

Sec. 4-71. Compliance.

(a) Every building, dwelling and dwelling unit used as a human habitation, or held out for use as human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of Division 2 of this article. No person shall occupy as owner-occupant or let to another for occupancy or use as a human habitation, any building, dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of Division 2 of this article.

(b) A public officer responsible for administering this article may determine that a dwelling is unfit for human habitation if the officer finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the county. Defective conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness, and such additional standards as are set forth in this article.

(c) A public officer responsible for administering this article may determine that an abandoned structure creates a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, frequent use by vagrants as living quarters in the absence of sanitary facilities or attracts persons intent on criminal activities which constitute a public nuisance.

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-72. Space and use standards.

The following shall constitute the minimum standards for residential and non-residential buildings and shall be pertinent in determining fitness for human habitation or occupation:

(1) Every dwelling or dwelling unit shall contain the minimum room size for each habitable room or space as required by the NC Residential Building Code as amended, or the Code in effect at the time of construction, whichever is least restrictive. All rooms and spaces that are intended to be occupied at different times for different purposes within a structure that is not a dwelling shall meet the NC Building Code as amended, or the Code in effect at the time of construction, whichever is least restrictive.

(2) No basement or cellar shall be used as a habitable room or space unless:

- a. The floors and walls are impervious to leakage of underground and surface runoff water and insulated against dampness and condensation.
 - b. The total window area in each room meets the requirements of section 4-77 or, if only one egress door is provided, the requirements of subsection 4-73(a).
 - c. Ceiling heights shall be equal to those required for habitable rooms.
 - d. There is at least one exit egress door, with a minimum horizontal opening of not less than thirty-six inches 36" and a vertical opening of not less than six foot, eight inches (6'8").
- (3) There shall be installed in every dwelling unit, outside every sleeping area, at least one operable smoke detector with audible alarm. The alarm shall emit not less than 85 decibels at ten feet. The detector shall be located on or near the ceiling and installed in accordance with the manufacturer's instructions and applicable state codes. The owner shall be responsible for maintenance and replacement of the detectors; however, the tenant may not remove or render a smoke detector inoperable.
- (4) There shall be installed a minimum of one operable carbon monoxide detector on every level of any dwelling unit that is rented to a tenant. The carbon monoxide detector may be either battery operated or wired into the electrical circuit, shall be listed by a nationally recognized testing laboratory, and shall be installed in accordance with either the standards of the NFPA or the minimum protection designated in the manufacturer's instructions. A carbon monoxide detector may be combined with detectors if the combination detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between the presence of carbon monoxide and the presence of smoke. This section only applies to dwelling units having a fossil-fuel burning heater, appliance, or fireplace and in any dwelling having an attached garage. Any operable carbon monoxide detector installed prior to January 1, 2010, shall be deemed to be in compliance with this section.
- (Ord. of 4/16/12)
- (5) All appliances supplied by the property owner shall be maintained in good repair and operation.
- (6) Access shall be provided to all rooms within a dwelling unit without passing through a public space. Rooming houses are exempt from this section.
- (7) Doors shall be provided at all doorways leading to bedrooms, toilet rooms, and bathrooms, and all rooms adjoining a public space. Toilet and bathroom doors shall have an operable privacy lock.

(8) Manufactured homes placed, erected or located on any parcel or lot, must have been constructed after July 1, 1976, and meet or exceed the standards promulgated by the United States Department of Housing and Urban Development that were in effect at the time of construction to qualify for any permits. In addition, all manufactured homes shall be provided with skirting materials that is acceptable for exterior construction. Skirting materials shall be durable and suitable for exterior exposures. Any wood framing used in support of skirting shall be approved pressure-treated wood. Manufactured skirting material shall be installed in accordance with the skirting manufacturer's requirements. The skirting requirement shall apply to all manufactured homes sited after the date of the adoption of this subsection April 16, 2012. All manufactured homes sited on real property before April 16, 2012, shall be brought into compliance with this skirting requirement on or before July 1, 2013.

(Ord. of 4/16/12)

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-73. Exit standards.

(a) Each dwelling or dwelling unit shall be provided with two exit egress doors, one of which shall have a minimum horizontal opening of not less than thirty-six inches 36" and a vertical opening of not less than six foot, eight inches 6'8", and accessible to the occupants of each housing unit. All exit egress doors shall be operable and lockable. In instances where only one exit egress door can be provided, then each sleeping room must have at least one operable window approved for emergency egress. The window must be operable from the inside without the use of a special key or tool. The bottom of the windowsill shall not exceed forty-four inches 44" above the finished floor. Such window shall provide a minimum clear opening width of twenty inches 20" and a minimum clear opening height of twenty-two inches 22". The total net clear opening shall not be less than four square feet. Bars, grills, or other obstructions placed over these windows must be releasable or removable from the inside without the use of a special key or tool.

(b) Platforms and/or steps shall be provided to serve exits and shall be maintained in a safe condition and in accordance with subsections 4-78(g) and (h).

(c) Safe, continuous and unobstructed exits shall be provided from the interior of the structure to the exterior at street or grade level.

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-74. Plumbing standards.

(a) Every dwelling or dwelling unit shall be connected to an approved water supply and sewage disposal system.

(b) Every dwelling or dwelling unit used or intended for use as human habitation shall have an enclosed bathroom and toilet facilities complete with water closet, tub or shower and lavatory, and shall also have a kitchen sink, all of which shall be connected to approved water and sewer systems.

(c) There shall be running water installed inside each dwelling or dwelling unit, with unimpeded flow to each outlet.

(d) There shall be separate toilet facilities for each dwelling or dwelling unit.

(e) Water-heating systems shall be provided which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water line to each tub, shower, lavatory, kitchen sink, washing machine, and/or any other supplied plumbing fixture and are capable of supplying water at a temperature of not less than 120 degrees Fahrenheit. Such supplied water-heating systems shall be capable of operating independently of the space-heating equipment.

(f) All fixtures shall be in proper working condition with no leaks.

(g) No fixtures shall be cracked, broken or badly chipped.

(h) Hopper bowl toilets are hereby prohibited.

(i) Access to toilet and bathing facilities shall be through a weather-tight area without going outside the building.

(j) Every water closet compartment floor surface and bathroom floor surface shall be so constructed and maintained as to be reasonably impervious to water to permit such floor to be readily kept in clean and sanitary condition.

(k) All water supply lines shall be protected from freezing by approved methods.

(l) All plumbing waste-water lines and vents shall be installed meeting the NC Plumbing Code, as amended, or the Code in effect at the time of construction, whichever is least restrictive, and maintained in proper working order free from leaks, broken lines, and stoppages at all times.

(m) Water closets shall be properly connected to a cold-water supply line.
(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-75. Heating standards.

(a) Every building and dwelling unit shall be weatherproof and capable of being adequately heated. The heating equipment in every dwelling or dwelling unit shall be maintained in proper working order at all times and comply with the following:

- (1) Every central or electric heating system shall be properly installed and maintained in good and safe working condition and capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling or dwelling units to a temperature of at least 68 degrees Fahrenheit at a point three feet above the floor with an outside temperature of 20 degrees Fahrenheit.
- (2) Where a central or electric heating system is not provided, each dwelling or dwelling unit shall be provided with sufficient fireplaces, chimney flues, or gas vents whereby heating appliances may be properly connected so as to furnish a minimum temperature of 68 degrees Fahrenheit at a point three feet above the floor with an outside temperature of 20 degrees Fahrenheit.
- (3) All gas and oil burning equipment installed on the premises shall be of a type approved and installed in accordance with the provisions of the state building code and any other applicable codes.

(b) Liquid fuel stored on the premises shall be stored in accordance with the provisions of the state building code and any other applicable codes.

(c) Chimneys shall be tight, safe, and capable of maintaining proper draft of combustion byproducts to outside air.

(d) No holes shall be permitted in the flue except for necessary vent connections and cleanout doors.

(e) All existing masonry chimneys that are not properly attached to the structure shall be removed or reattached in accordance with the provisions of the most currently adopted State residential building code and any other applicable codes.

(f) Thimbles shall be grouted in tightly.

(g) Thimbles shall be located high enough to provide proper draft for the heating appliance served thereby.

(h) Fireplace(s) shall be used only for supplemental heat and not for primary heating and shall have no loose mortar or damaged firebrick.

(i) Hearths shall be of noncombustible material and shall extend at least 12 inches beyond the face and six inches beyond each side of the fireplace opening.

(j) No combustible materials shall be permitted within seven inches of the top and seven inches on either side of the fireplace opening.

(k) No combustible material shall be located within six inches of the thimble.
(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-76. Electrical standards.

(a) Every dwelling and dwelling unit shall be wired for electrical lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles installed in accordance with the NC State Electrical Code. At least one fixed in place ceiling or wall type electric light fixture shall be provided in every bedroom, toilet room, bathroom, laundry room, furnace room, public hall, basement or any other area in which artificial light is required for the safety and welfare of the occupants. A switched wall receptacle shall be acceptable in a bedroom, living room or den.

(b) All receptacles, ceiling fixtures or other fixtures shall be securely attached.

(c) All switches and fixtures shall be safely operable or sealed off and disconnected.

(d) No flexible cords shall be used as a substitute for the fixed wiring of a structure, nor run through holes in walls, ceiling or floors; through doorways, windows or similar openings; attached to building surfaces, or concealed behind building walls, ceilings or floors.

(e) Fuses, circuit breakers, or branch circuits shall be properly sized and maintained in accordance with the provisions of the most currently adopted National Electrical Code and any other applicable codes.

(f) Every public hall and stairway in every multifamily dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to residential occupancy, containing not more than four dwelling units, may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed instead of full-time lighting. Lights at entrances and exits are required.

(g) All electric wiring, devices, appliances and fixtures shall be installed and maintained in accordance with the provisions of the most currently adopted National Electrical Code and any other applicable codes.
(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-77. Light and ventilation standards.

(a) Every habitable room shall have an aggregate glazing area of not less than 8 percent of the area of such room. Natural ventilation shall be through windows, skylights, doors, or other approved openings to the outside air. Such openings shall be easily accessible and controllable by the occupants of the room. The operable area to the outdoors shall be not less than 4 percent of the floor area being ventilated.

(b) Operable windows, skylights, doors, or other approved openings that have been installed to meet the foregoing requirement shall be properly screened and alone or combined meet the minimum 4 percent clear opening requirement for ventilation of the room. This requirement does not apply to emergency egress windows from sleeping rooms as required in subsection 4-73(a).

(c) Screens shall not be permanently fixed to the window frame or sash. All exterior doors shall have either a screen door or a storm door and be equipped with a self-closing device. When approved by the public officer, the screens on windows and doors may be omitted for dwelling or dwelling units containing a permanently installed heating and air conditioning system providing the dwelling or dwelling unit with year-round mechanical ventilation. Screens shall be installed in dwellings or dwelling with window air conditioning units which are not permanently installed.

(d) Window frames and glass shall be reasonably weather-tight, with no cracked or broken glass.

(e) Each toilet room and bathroom shall have an operable window unless served by an approved mechanical ventilation system.

(f) Every exterior and interior public passageway, hallway, and stairwell in every dwelling or multifamily building shall be adequately illuminated at all times to permit safe passage.

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-78. Structural standards.

(a) *Foundations.*

(1) The foundation shall be on firm, reasonably dry ground, and there shall be no water standing or running under the building.

(2) All elements of the foundation, including masonry, steel, or wood piers, masonry walls, and steel structural members, shall be in good repair and free from decay, rot,

or structural deterioration. Piers shall be plumb, level, and have proper bearing on footings and structural member they support.

- (3) There shall be properly sized and spaced footings placed on adequate bearing soil.
- (4) There shall be no wood stiff knees or other improper piers.
- (5) No isolated masonry pier shall exceed ten times the least dimension.
- (6) Units, when underpinned, shall use an approved material so as to be substantially weatherproof and rodent-proof. A crawl space access, with cover, shall be provided to the under-floor space. Adequate ventilation shall be provided to the foundation area by approved methods.

(b) *Floors.*

- (1) Broken, overloaded, decayed or excessively sagging sills, beams, girders and joists shall be prohibited. Floors shall be maintained in good repair and be capable of supporting the intended live and dead loads which normal use may cause to be placed on them.
- (2) Flooring shall be reasonably smooth, not rotten or worn through, and without holes or excessive cracks which permit air or rodents to penetrate rooms.
- (3) There shall be no loose flooring or floor covering.
- (4) Floors shall be reasonably level.
- (5) There shall be no dirt floors or wood floors on the ground.
- (6) All bathroom, toilet room, laundry and kitchen floors shall be constructed and maintained to be impervious to water by covering with a waterproof, nonabsorbent material.

(c) *Walls, exterior.*

- (1) All exterior surfaces shall be structurally sound, waterproof, weatherproof and rodent- proof with no holes, cracks or rotted boards.
- (2) Window frames and glass shall be reasonably weather-tight, with no cracked or broken glass. All windows shall be provided with suitable hardware to include operable locks and shall be made to open freely.

- (3) Exterior doors shall be substantially weather-tight, waterproof and rodent-proof, and lockable from inside and outside. Doors shall be maintained in proper working condition.
- (4) All load-bearing walls, exterior or interior, shall not be substantially bowed or out-of-plumb and shall be structurally sound.
- (5) Studs shall provide sufficient support for sheathing or exterior finish and shall not be rotten or termite damaged.
- (6) All exterior surfaces shall be protected with paint or other approved protective covering to prevent deterioration and the entrance or penetration of moisture.
- (7) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or locations as to constitute a fire hazard. See section 4-75 for additional requirements.

(d) *Walls, interior.*

- (1) Interior finish shall be free of holes.
- (2) Walls shall be in sound condition, not seriously out-of-plumb, and structurally sound.
- (3) There shall be no loose plaster, loose boards, or other loose wall materials susceptible to falling.
- (4) There shall be no rotten, termite [-damaged], fire-damaged or broken studs.
- (5) There shall be no cardboard, newspaper, or other similar highly combustible wall finish.

(e) *Ceilings.*

- (1) There shall be no rotten, broken, sagging, or fire-damaged joists or improperly supported ends.
- (2) Joists and supporting members shall provide sufficient support for the ceiling.
- (3) The ceiling shall be substantially rodent proof. There shall be no holes, loose plaster, boards, sheetrock, or other ceiling finish susceptible to falling.

(4) There shall be no cardboard, newspaper, or other similar highly combustible finishes.

(f) *Roof.*

(1) Roofs shall be in sound condition and capable of supporting the load intended.

(2) There shall be no rotten, broken, or fire-damaged rafters or improperly supported ends.

(3) Rafters shall be adequately braced.

(4) Attics shall be properly ventilated.

(5) There shall be no loose or seriously rotted or fire-damaged sheathing or roof covering. Roofing shall be provided to prevent the entrance of moisture and shall be maintained by renewal, repair, waterproofing or other suitable means.

(6) There shall be a minimum of Class C roof covering.

(7) There shall be proper flashing at walls and chimney.

(8) There shall be no roof with more than two roof coverings.

(9) Gutters and downspouts, if installed, shall be properly maintained to collect, transfer, and discharge the water from the roof and away from the structure.

(g) *Porches.*

(1) The foundation, floor, ceiling and roof of all porches shall meet and be maintained to the same standards as set forth above, except sills and joists need not be level if providing drainage of floors; floors need not be weather-tight; and the ceiling height shall be not less than seven feet.

(2) Posts and railings shall not be rotted or termite damaged.

(3) Every porch, terrace or entrance platform located at more than 30 inches above the adjacent finished grade shall be equipped with guardrails not less than 36 inches high.

(4) Surfaces shall be protected with paint or other approved covering or material to prevent the entrance or penetration of moisture.

(h) *Stairs and steps.*

- (1) Stairs and steps shall be free of holes, grooves and cracks large enough to present tripping hazards. They shall be properly attached, supported, and capable of supporting the loads that normal use may cause to be placed on them.
- (2) Stairwells and flights of stairs, attached to or within a dwelling unit, that contain four or more risers shall have handrails with minimum and maximum heights of 30 inches and 38 inches, respectively, measured vertically from the nose of the treads.
- (3) Every rail shall be firmly fastened and maintained in good condition.
- (4) No flight of stairs settled more than one inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.
- (5) No rotting, sagging or deteriorated supports shall be allowed.
- (6) Every stair riser shall be reasonably uniform and shall not exceed eight and one-fourth inches in height and shall be securely fastened in position. Every wood riser in excess of 36 inches in width shall have an additional stringer, each stringer to be spaced not more than 30 inches apart. The minimum depth of treads shall be nine inches excluding the nosing.
- (7) Exterior stairs shall be protected with paint or other approved covering or material to prevent the entrance or penetration of moisture.

(i) *Accessory structures.*

- (1) Fences and other accessory structures and buildings shall either be maintained in a safe and structurally sound condition or be demolished and removed from the property.
- (2) The structural standards, as outlined in this section, shall also apply to all accessory structures and buildings.
- (3) No deterioration due to the elements because of lack of preventive maintenance consisting of painting, waterproofing and repair shall be allowed.
- (4) Any electrical, plumbing, heating or other utilities furnished to an accessory structure shall be installed in accordance with the state building code or other applicable codes and maintained in a safe condition.

- (5) Every accessory structure shall be properly maintained in a clean and sanitary condition, and free from physical hazards and other matter detrimental to the public health.

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-79. Property maintenance.

(a) *Vermin.* Premises, buildings, and structures shall, by generally accepted methods of extermination, be maintained free of vermin and rodent harborage and infestation.

(b) *Rubbish and garbage.* Every person who occupies and controls a dwelling unit shall dispose of all rubbish and garbage in a clean and sanitary manner by placing it in proper garbage receptacles. The owner shall be responsible for providing the receptacles for the storage of garbage and rubbish. Removal shall be at such frequent intervals to prevent buildup.

(c) *Drainage.* Every yard shall be properly graded to obtain thorough drainage and to prevent the accumulation of stagnant water in the yard or under the structure.

(d) *Overgrown Vegetation.* Every yard and all exterior property areas shall be kept free of overgrown vegetative plant growth which is detrimental to public health or provide breeding places for flies, insects, rodents, or other similar pests.

(e) *Protective Treatment.* All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated, and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the and the perimeter of windows, doors, and skylights shall be maintained weather-resistant and water-tight. All metal surfaces subject to rust or corrosion shall be stabilized and coated to inhibit rest and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-80. Rooming house exceptions.

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

- (1) At least one water closet, lavatory and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the resident building served; shall be accessible from a common hall or passageway; and shall not be more than one story removed from any of the persons sharing such facilities. Every lavatory and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar or basement. All rooms containing these appurtenances shall have a door equipped with a privacy lock.
- (2) Every room occupied for sleeping by one occupant shall contain at least 70 square feet of floor area and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant over 12 years of age.
- (3) The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house and premises.
- (4) No occupant of a rooming house shall heat or cook or permit the heating of food within his rooming unit.

(Ord. of 6-15-98)

Sec. 4-81. Requirements of occupants.

Every occupant of a dwelling or dwelling unit or apartment shall:

- (1) Keep that part of a dwelling or dwelling unit or apartment which they occupy and control in a clean and sanitary condition.
- (2) Keep all required plumbing and other fixtures in a clean and sanitary condition, and exercise reasonable care in the use and operation thereof.
- (3) Be responsible for the extermination of any insects, rodents or other pests whenever such dwelling unit or apartment is the only one in the residential building infested, and the owner has provided a reasonable insect-proof and adequate rodent-proof building.
- (4) Dispose of all garbage and other refuse in an approved garbage receptacle.
- (5) Permit the public officer free access at reasonable times for the purpose of inspection in accordance with section 4-83 of this article.

- (6) Not place on the premises any material which causes a fire or otherwise endangers the health or safety of any occupants of such building; not place in storage or on the premises any furniture, auto parts, junk rubbish, equipment or material which harbors insects, rodents or other pests.
 - (7) Not occupy any dwelling unit unless running water is provided to the required plumbing fixtures.
 - (8) Not place within any structure, for use therein, any oil or gas-fired portable or non-vented cook stove or heater.
 - (9) Not place on the premises, for use thereon, any heating or cooking unit which constitutes a fire hazard.
 - (10) Not cause such damage to the dwelling unit or apartment let to him as to make the same unfit for human habitation.
 - (11) Not occupy a dwelling unit after the public officer has duly placarded the structure in accordance with section 4-83 and section 4-86.
 - (12) Give the owner, their agent or employee access to any part of such dwelling or dwelling unit and its premises at all reasonable hours for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.
 - (13) Not cause any service, facility, equipment, or utility which is required under this chapter to be removed or shut off from, or discontinued for, any dwelling occupied by them.
- (Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-82. Liability, responsibility of owner.

(a) An owner remains liable for violation of duties imposed upon them by this article even though:

- (1) An obligation is also imposed on the occupant.
- (2) The owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this article.

(b) Whenever infestation is caused by failure of the owner to maintain a dwelling in a

rodent- proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in a dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(c) The owner may not permit the continued occupancy of a dwelling unit which has been duly placarded by the public officer in accordance with section 4-83 or section 4-86.

(d) The owner shall furnish adequate storage receptacles for garbage and rubbish and shall be responsible for the removal of all garbage and rubbish from the premises at frequent enough intervals to prevent buildup of such garbage and rubbish.

(e) The owner shall be responsible for compliance with this Division 2 of this article.

(f) No owner or operator shall cause any service, facility, equipment, or utility which is required under this ordinance to be removed or shut off from or discontinued for any occupied dwelling.

(g) The owner shall ensure that the structure remains closed and secured when not occupied. Should it become necessary to board the windows and/or doors, it must be done with boards fitted to the openings, screwed in place, and painted a color consistent with the surrounding wall area.

(Ord. of 4-16-12; Ord. of 6-21-21)

DIVISION 3. – ENFORCEMENT

Sec. 4-83. Procedure.

(a) *Investigation, complaint, hearing.* Whenever a petition is filed with the public officer by a public authority or by at least five residents of the jurisdiction charging that any dwelling is unfit for human habitation or any abandoned structure creates a health or safety hazard, or when it appears to the public officer that any dwelling is unfit for human habitation or any abandoned structure creates a health or safety hazard, the public officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings and abandoned structures a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the public officer, or the officer's designated agent, at a place within the county. The hearing shall be held not less than 10 days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the public officer.

(b) *Orders.* If, after notice and an administrative hearing, the public officer determines that the dwelling or abandoned structure under consideration is unfit for human habitation or creates a health or safety hazard, the officer shall state in writing findings of fact in support of that determination in the form of a notice of violation and shall issue and cause to be served upon the owner one of the following orders, as appropriate:

- (1) If the public officer determines that the repair, alteration, or improvement of the dwelling to render it fit for habitation or the elimination of the health or safety hazard created by the abandoned structure can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling or abandoned structure, the order shall require the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation or eliminate the health or safety hazard created by the abandoned structure. The order may require that the property 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. The order shall state that the failure to make timely repairs or eliminate the health and safety hazard as directed in the order shall make the dwelling or abandoned structure subject to the issuance of an unfit order under subsection 4-83(c).

- (2) If the public officer determines that the repair, alteration, or improvement of the dwelling to render it fit for habitation or the elimination of the health or safety hazard created by the abandoned structure cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling or abandoned structure, the order shall require the owner, within the time specified in the order, to remove or demolish the dwelling or abandoned structure. However, if the dwelling is located in a historic district and the Historic District Commission determines, after an administrative hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160D-949.

(c) *Repair, closing, and posting.* – If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling or abandoned structure, the public officer may cause the dwelling or abandoned structure to be repaired, altered, or improved or to be vacated and closed, and the public officer may cause to be posted on the main entrance of any dwelling or abandoned structure so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this subsection shall not be exercised until the board of commissioners shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation or create a health or safety hazard and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the Office of the Cumberland County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.

(d) *Demolition.* If the owner fails to comply with an order to remove or demolish the dwelling or abandoned structure, the public officer may cause such dwelling or abandoned structure to be removed or demolished. The duties of the public officer set forth in this subsection shall not be exercised until the board of commissioners shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation or create a health or safety hazard and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling or abandoned structure until the owner has first been given a reasonable opportunity to bring the dwelling into conformity with the housing code or to eliminate the health and safety hazards created by the abandoned structure. This ordinance shall be recorded in the Office of the Cumberland County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.

(e) *Abandonment of Intent to Repair.* If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subsection 4-83(c), or after a public officer issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subsection, then the board of commissioners may 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, and welfare of the county 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 that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in the community, then in such circumstances, 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:

- (1) If the public officer determines that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.
- (2) If the public officer determines that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

These ordinances shall be recorded in the Office of the Cumberland 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 the ordinance, the public officer shall effectuate the purpose of the ordinance.

(f) *Liens.*

- (1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer 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 Article 10 of Chapter 160A of the General Statutes.
- (2) If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the

owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.

- (3) If the dwelling or abandoned structure is removed or demolished by the public officer, the county shall sell the materials of the dwelling or structure, and any personal property, fixtures, or appurtenances found in or attached to the dwelling 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 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 or decree of the court.

(g) *Other remedies.* Nothing in this section shall be construed to impair or limit in anyway the power of the county to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(h) *Civil action.* 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 county 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 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 10 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. If the summons appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the board of commissioners pursuant to subsection 4-83(c) 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 paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the board of commissioners has ordered the public officer to proceed to exercise his duties under subsections 4-83(c), (d), or (e) to vacate and close or remove and demolish the dwelling.

(i) *Additional notices to affordable housing organizations.* Whenever a determination is made pursuant to subsection 4-83(c) 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 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.

(j) *Service of complaints and orders.*

- (1) Complaints or orders issued by a public officer shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order shall also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days after the mailing. A notice of the pending proceedings shall also be posted in a conspicuous place on the premises affected.
- (2) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail and the regular mail was returned within 10 days, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the jurisdiction at least once no later than the time at which personal service would be required under the provisions of this article. When service is made by publication, a notice of the pending proceedings shall also be posted in a conspicuous place on the premises thereby affected.

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-84. Right of appeal to the Board of Adjustment and Superior Court.

(Ord. of 6-15-98; Ord. of 6-21-21)

(a) An appeal from any decision or order of the public officer is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, board, or commission of the county. Any appeal from the public officer shall be taken within 10 days from the rendering of the decision or service of the order by filing with the public officer and with the Board of Adjustment a notice of appeal that shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the public officer shall forthwith

transmit to the Board of Adjustment all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the public officer refusing to allow the person aggrieved thereby to do any act, the decision remains in force until modified or reversed. When any appeal is from a decision of the public officer requiring the person aggrieved to do any act, the appeal has the effect of suspending the requirement until the hearing by the Board of Adjustment, unless the public officer certifies to the Board of Adjustment, after the notice of appeal is filed with the officer, that because of facts stated in the certificate, a copy of which shall be furnished to the appellant, a suspension of the requirement would cause imminent peril to life or property. In that case the requirement is not suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the public officer, by the Board of Adjustment, or by a court of record upon petition made pursuant to subsection 4-84(d).

(b) The Board of Adjustment shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and, to that end, it has all the powers of the public officer, but the concurring vote of four members of the board is necessary to reverse or modify any decision or order of the public officer. The board also has power in passing upon appeals, when unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.

(c) Every decision of the Board of Adjustment is subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board of Adjustment, but not otherwise.

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

(e) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this article or of any ordinance adopted under authority of this article

or any valid order or decision of the public officer or Board of Adjustment made pursuant to any ordinance adopted under authority of this article, the public officer or Board of Adjustment may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, or use; to restrain, correct, or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling.

Sec. 4-85. Violations, penalties, and enforcement remedies.

(a) *Violations.*

- (1) Every dwelling as defined herein which does not comply with all the requirements of Division 2 of this article shall be deemed substandard and in violation of this article. Every abandoned structure which creates a health or safety hazard shall be in violation of this article.
- (2) Unless otherwise provided in this article, all requirements relating to housing and the maintenance of abandoned structures shall be the responsibility of the owner.
- (3) No person shall occupy as owner-occupant or let to another or others for occupancy or use or cause or allow to be used as a human habitation, any dwelling or building which exhibits any of the conditions described in subsection 4-86(b) and has been ordered vacated in accordance with subsection 4-83(c). The removal, defacing, moving, mutilating, or covering of the placard by any person is prohibited and shall constitute a separate offense.
- (4) The public officer shall determine that a residential building is unfit for human habitation if he finds that any of the conditions contained in subsection 4-86(b) exist in such building.
- (5) Each day that any such condition or failure, neglect, refusal, or occupancy continues shall constitute a separate and distinct offense.

(b) *Criminal penalty.*

- (1) With the exception of occupation of a posted dwelling or abandoned structure in violation of subsection 4-83(c), no other violations of this article are crimes.
- (2) The public officer may seek, from an appropriate official of the general court of justice, an arrest warrant or other process initiating criminal charges against any person who violates subsection 4-83(c) of this article.

(c) *Civil penalties.* Violation of this article may subject the owner or party in interest to a penalty of \$250.00 per day for each day and every day the violation exists. The penalty shall be payable to Cumberland County and shall be paid at the Office of the Cumberland County Planning and Inspections Department. Failure of the owner or party in interest to pay the penalty within 12 days shall result in the county initiating collection of the debt through a civil action and through the North Carolina Setoff Debt Collection Act.

(d) *Equitable remedies.*

- (1) This article may be enforced by an appropriate equitable remedy issued from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate and it shall not be a defense to the application of the county that there is an adequate remedy at law.
- (2) When a violation of this article occurs, the county may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. In addition to an injunction, the court may enter an order of abatement as part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property, that grass and weeds be cut, that improvements or repairs be made; or that other action be taken that is necessary to bring the property into compliance with the article. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt and the county may execute the order of abatement. The county shall have a lien on the property for the cost of executing an order of abatement. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the judge before whom the matter is heard and shall be continued on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(e) *Other remedies.*

- (1) The criminal penalties and equitable remedies provided in this section are cumulative and not exclusive and may be independently pursued against the same person for the activity constituting a violation of this section. Nothing in this section shall be construed to impair or limit in any way the power of the county to define and declare nuisances and to cause their removal or abatement by summary

proceedings or otherwise. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies in other ordinances or laws.

- (2) This article may be enforced by the public officer submitting to the board of county commissioners an ordinance ordering a substandard or unfit, dwelling or abandoned structure to be repaired, altered, improved, vacated, closed, removed or demolished, and pending removal or alteration, by placing a placard on such dwelling, , or abandoned structure as provided by section 4-83 of this article. The amount of the cost of any repairs, alterations, improvement, vacating, closing, removal, or demolishing caused to be done by the public officer shall be a lien against the real property upon which such cost was incurred in accordance with subsection 4-83(f). The ordinance may provide for the imposition of a civil penalty for each day's continuing violation of any provision of the ordinance for compliance. The amount of the penalty shall be determined by the board of county commissioners in each ordinance based upon the facts and circumstances of each case. The amount of the penalty for each day's violation shall not exceed \$250.00.

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-86. Emergency enforcement procedures.

(a) *Generally.* The existence of unfit conditions of habitation which pose an imminent threat of bodily harm to occupants of a dwelling, a dwelling unit, or an abandoned structure, or any person upon the premises or adjacent property or neighborhood are declared unlawful conditions existing upon, or use made of, land and constitute a public nuisance. In order to protect the public welfare, expedited procedures are necessary to immediately remedy these unlawful conditions.

(b) *Unfit conditions.* Unfit conditions of habitation or occupation which pose an imminent threat of serious bodily harm include, but are not limited to:

- (1) Unsafe drinking water.
- (2) Lack of a sanitary and legal means to dispose of human sewage.
- (3) Unsafe electrical installation in violation of the state building code.
- (4) Hazardous cooking or heating equipment.
- (5) Unsafe fuel storage tanks and/or supply lines.

(6) Substantial rodent or vermin infestation.

(7) Serious structural deterioration creating a likelihood of collapse.

(c) *Violation.* It shall be a violation of this article for an owner or party of interest to knowingly permit, allow or condone the existence of unfit conditions of habitation or occupation upon the premises of any dwelling or abandoned structure which pose an imminent threat of serious bodily harm of occupants of the dwelling, or abandoned structure, or any person upon the premises of adjacent property or neighborhood. Failure of the owner to correct the unfit condition of habitation or occupation which poses an imminent threat of serious bodily injury within the time prescribed by the public officer shall be prima facie proof of the initial violation. Each day's existence of the condition, subsequent to the date of correction specified by the public officer, shall be an additional separate and distinct violation.

(d) *Procedure.*

(1) The public officer, upon receipt of a complaint or upon his own initiative, shall investigate the alleged unlawful condition. The public officer shall determine if the condition creates an imminent threat of bodily harm to occupants or persons upon the premises. Such determination constitutes a violation of this article.

(2) Upon such determination, the public officer shall:

- a. Placard the main entrance of any structure. The placard shall provide notice that the structure has been condemned and is deemed unsafe for human occupancy.
- b. Notify the owner or party of interest of the public officer's determination that the dwelling or abandoned structure is unfit for human habitation and poses an imminent threat of bodily harm to occupants or persons upon the premises, and that such condition is a violation of this article.

(3) The notice shall be in writing and served in accordance with section 4-83 and shall state:

- a. The particular condition found to pose a serious threat of bodily injury and that the condition is both a violation of this article.
- b. The specific correction to be made.
- c. The date of the initial violation as the date of receipt of the notice.

- d. The date not later than which the correction is to be made.
- e. The failure to correct the condition within the time prescribed in the notice is prima facie proof of the initial violation.
- f. That each day's willful failure to correct the condition subsequent to the date prescribed in the notice for correction is a separate and distinct violation of this article.

(4) The public officer shall prescribe a reasonable time for the correction of the condition found to pose a serious threat of bodily harm; however, that period shall not be less than 72 hours.

(5) A copy of section 4-86 shall accompany the notice.

(e) *Enforcement.*

(1) Violation of this section subjects the owner or party in interest to a civil penalty of \$250.00 per day, subsequent to the date of receipt of the notice of violation, for each day and every day the condition remains uncorrected. The penalty shall be payable to Cumberland County and shall be paid at the Cumberland County Planning & Inspections Department. Failure of the owner or party in interest to pay the penalty within 12 days after receipt of the notice shall result in the county initiating collection of the debt through a civil action and the North Carolina Setoff Debt Collection Act.

(2) The civil penalties and equitable remedies provided in section 4-85 are applicable to this section in addition to the civil penalty above. These means of enforcement are cumulative, and not exclusive, and may be independently pursued against the same person for the activity constituting a violation of this section.

(Ord. of 6-15-98; Ord. of 6-21-21)

Sec. 4-87. Territorial Jurisdiction.

(a) This article is applicable to any area within the territorial jurisdiction of the County of Cumberland, North Carolina, and within the territorial limits of any municipality within the county for which the governing board of the municipality has adopted a resolution pursuant to former N.C.G.S. § 160A-441, N.C.G.S. § 160D-202, or any other statutory authority requesting this ordinance or code to be applicable within the municipality's jurisdiction and for which the county's governing board adopts a resolution accepting the municipality's jurisdiction for this purpose.

(b) The Clerk to the Board of Commissioners shall maintain a copy of the requesting and accepting resolutions in the Ordinance Book with this ordinance.
(Ord. of 12-18-23)