

## CHAPTER 152: HOUSING

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## **GENERAL PROVISIONS**

### **§ 152.01 FINDING; PURPOSE.**

(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 due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. § 160A-19-6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160A-444.  
(’81 Code, § 440) (Ord. passed 7-14-75)

### **§ 152.02 DEFINITIONS.**

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

***BASEMENT.*** A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

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

***DETERIORATED.*** A dwelling that is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of 50% of its value, as determined by finding of the inspector.

***DILAPIDATED.*** A dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of 50% of its value, as determined by finding of the inspector.

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

***DWELLING UNIT.*** Any room or group of rooms forming a single habitable unit

used or intended to be used for living and sleeping, but not for cooking or eating purposes.

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

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

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

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

**INSPECTOR.** A housing inspector of the town (herein after called “inspector”) or any agent of the inspector who is authorized by the inspector. A housing inspector shall be appointed by the Town Manager.

**MULTIPLE DWELLING.** Any dwelling containing more than two dwelling units.

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

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

**OWNER.** Any person who alone, jointly, or severally with others:

(1) Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

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

**PART OF DWELLING, and the like.** Whenever the words **DWELLING**, **DWELLING UNIT**, **ROOMING HOUSE**, **ROOMING UNIT** or **PREMISES** are used in this chapter they shall be construed as though they were Followed by the words “or any part thereof.”

**PLUMBING.** All of the following supplied facilities and equipment: Gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

**PUBLIC AUTHORITY.** The Board of Adjustments or any officer who is in charge of any department or branch of the town, county or state government relating to health, fire, building regulations or other activities concerning dwellings in the town.

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

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

**RUBBISH.** Combustible and noncombustible waste materials, except garbage and ashes, including paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.

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

**TEMPORARY HOUSING.** Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premises for more than 30 consecutive days.

**UNFIT FOR HUMAN HABITATION.** Conditions that exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this chapter. ('81 Code, § 4-41) (Ord. passed 7-14-75; Am. Ord. 1993-6, passed 10-25-93)

### **§ 152.03 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.**

(A) *Public areas.* 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.

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.

(C) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall

dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied 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 of same.

(E) *Care of facilities, equipment and structure.* No occupant shall wilfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

('81 Code, § 4-50) (Ord. passed 7-14-75)

#### **§ 152.04 VALIDITY.**

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Board of Commissioners hereby declares that it would have passed this Chapter and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

(Ord. 1993-6, passed 10-25-93)

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

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, 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 town's jurisdiction shall prevail. The North Carolina Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this chapter.

(Ord. 1993-6, passed 10-25-93)

### ***MINIMUM STANDARDS***

#### **§ 152.10 STANDARDS OF FITNESS FOR DWELLINGS AND UNITS.**

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of § 152.11 through 152.16. No person shall occupy as owner-occupant, or let a dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of § 152.11 through 152.16.

('81 Code, § 442) (Ord. passed 7-14-75)

**§ 152.11 STRUCTURAL CONDITIONS.**

(A) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(D) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities regress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness and shall be maintained in such a manner as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weathertight and watertight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors, or wood floors on the ground.  
(81 Code, § 4-43) (Ord. passed 7-14-75)

**§ 152.12 BASIC EQUIPMENT AND FACILITIES.**

(A) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and 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.

(3) All plumbing fixtures shall meet the standards of the town plumbing code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with division (1) or (2) below.

(1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70° F. measured at a point three feet above the floor during ordinary winter conditions.

(2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 70° F. measured three feet above the floor during ordinary winter conditions.

(C) *Electrical system.*

(1) Every dwelling and dwelling unit shall be wired by electric lights and convenience receptacles. Every habitable room shall contain at least two floor- or wall-type electric convenience receptacles, connected in such manner as determined by the town electrical code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling- or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor- or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all time when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, sale, capable of being used, and installed in accordance with the town electrical code.

(81 Code, § 4-44) (Ord. passed 7-14-75)

### **§ 152.13 VENTILATION.**

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or

other portions of structures face a window or any room and such light obstruction structures are located less than five feet from the window and extended to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened or such other device as will adequately ventilate the roof. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(C) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system. ('81 Code, § 4-45) (Ord. passed 7-14-75)

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

(A) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the town residential building code. Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes 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 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than that 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 42 feet shall not be considered a part of the floor area computing the total area of the room to determine maximum permissible occupancy.

(D) *Cellar.* No cellar shall be used for living purposes.

(E) *Basement.* No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms;

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well, or accessway.

('81 Code, § 4-46) (Ord. passed 7-14-75)

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

(A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall, and exterior roof shall be substantially weathertight and rodentproof; kept in sound condition and good repair; capable of affording privacy; safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) *Interior floors; walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodentproof kept in sound condition and good repair; safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) *Windows and doors.* Every window, exterior door, basement or cellar door, and hatchway shall be substantially weathertight and rodentproof and shall be kept in sound working condition and good repair.

(D) *Stairs, porches and appurtenances.* Every outside and inside stair, porch, and any appurtenance thereto shall be safe to be placed thereon; and shall be kept in sound condition and good repair.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(H) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the town building code.  
(’81 Code, § 4-47) (Ord. passed 7-14-75)

### **§ 152.16 CONTROL OF INSECTS; RODENTS; INFESTATIONS.**

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, likewise shall be supplied with screens installed.

(B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such approved device as will effectively prevent their entrance.

(C) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other unit therein or on the premises and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage storage and disposal.* Every dwelling and every dwelling unit 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 or an incinerator unit, to be approved by the inspector, in the structure or the use of the occupants of each dwelling unit, or an approved outside garbage can as required by town ordinances.

(’81 Code, § 4-48) (Ord. passed 7-14-75)

### **§ 152.17 APPLICATION TO ROOMING HOUSES; EXCEPTIONS.**

(A) All of the provisions, minimum standards and requirements of this chapter 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 divisions (1) and (2) below.

(1) *Water closet, hand lavatory and bath facilities.* At least one water closet,

lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(2) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes 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 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings and the sanitary maintenance of 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 of the building within which the rooming house is contained is leased or occupied by the operator.

(C) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin, and bathtub or shower required by division (A) of this section shall be located within the rooming house and within rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

('81 Code, § 4-19) (Ord. passed 7-14-75)

## ***PROCEDURES FOR ENFORCEMENT***

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

Whenever a petition is filed with the Inspector by a public authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, the Inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of any parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend the hearing

and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

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

Park II. All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

This Ordinance shall become effective upon its adoption by the Town Council of the Town of Tyron, North Carolina.

(’81 Code, § 4-54(a)) (Ord. passed 7-14-75) (Ord. 1996-2, passed 5/20/96)

#### **§ 152.31 PROCEDURE AFTER HEARING; ORDER.**

If, after notice and hearing, the Inspector determines that the dwelling under consideration is unfit for human habitation in accordance with the standards set forth above, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:

(A) If the repair, alteration or improvement of the dwelling can be made at a cost of less than 50% of the value of the dwelling, requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation, based upon the Inspector's standards for closing dwellings; or

(B) If the repair, alteration or improvement of the dwelling cannot be made at a cost of less than 50% of the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish such dwelling. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the town and the Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. § 160A-400.14(a).

(C) Whenever a determination is made pursuant to divisions (A) or (B) above 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 Inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Inspector shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Inspector to wait 45 days before causing removal or demolition. (Ord. 1993-6, passed 10-25-93)

**§ 152.32 FAILURE TO COMPLY WITH ORDER.**

(A) (1) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Inspector may:

(a) Cause the dwelling to be repaired, altered or improved or to be vacated and closed; or

(b) Cause to be posted on the main entrance of any such dwelling, 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.”

(2) Occupation of a building so posted shall constitute a violation of this chapter.

(B) (1) If the owner fails to comply with an order to remove or demolish the dwelling, the Inspector may:

(a) Cause such dwelling to be vacated and removed or demolished.

(b) Cause to be posted on the main entrance of any such dwelling, 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.”

(2) Occupation of a building so posted shall constitute a violation of this chapter.

(C) The duties of the Inspector set forth in divisions (A) and (B) above shall not be exercised until the Board of Commissioners shall have, by ordinance, ordered the Inspector to proceed to effectuate the purpose of this chapter with respect to the particular

property or properties which the Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the Housing Code. For the purposes of this division a period of 90 days following the date of the Inspector's order shall constitute a reasonable opportunity. The ordinance adopted pursuant to this division 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.

(D) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the N.C. General Statutes. If the dwelling is removed or demolished by the Inspector, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Inspector, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order of the decree of the Court.

(E) If any occupant fails to comply with an order to vacate a dwelling, the Inspector may file a civil action in the name of the town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any persons 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. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the Board of Commissioners pursuant to division (C) authorizing the Inspector 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 judgement 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 judgement 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 Inspector to proceed to exercise his duties under divisions (A), (B), and (C) of this section to vacate and close or remove and demolish the dwelling.  
(Ord. 1993-6, passed 10-25-93; Am. Ord. 2010-04, passed 02-16-10)

**§ 152.33 APPEALS FROM ORDERS OF BUILDING INSPECTOR.**

(A) An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby.

(B) Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order and shall be taken by filing with the Inspector and with the Board of Adjustments a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector forthwith shall transmit to the Board all the papers constituting the record upon which the decision appealed from was made.

(C) When the appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed within, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant) a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted or due cause shown upon not less than one day's written notice to the Inspector, by the Board or by a court of record upon petition made pursuant to G.S. § 16-A-446(i) and § 152.34.

(D) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney.

(E) The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Inspector.

(F) The Board shall have power also in passing upon appeals in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

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

('81 Code, § 4-54(d)) (Ord. passed 7-14-75)(Am. Ord. 2010-04, passed 02-16-10)

**§ 152.34 PETITION TO SUPERIOR COURT BY OWNER.**

Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board of Adjustments shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160A- 446(i).

('81 Code, § 4-54(e) (Ord. passed 7-14-75)

**§ 152.35 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two successive weeks in a newspaper, printed, published and circulating in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

('81 Code, §4-55) (Ord. passed 7-14-75)

***ADMINISTRATION***

**§ 152.50 INSPECTOR; DUTIES AND POWERS.**

(A) The Inspector is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. It shall be the duty of the Inspector:

(1) To investigate the dwelling conditions and to inspect dwellings and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to such dwellings and dwelling units;

(2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(3) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and

(4) To perform such other duties as may be herein prescribed.

('81 Code, § 4-51)

(B) The Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to those powers granted in division (A) above:

(1) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

(2) To administer oaths and affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and

(4) To appoint and fix the duties of such officers, agents, and employees as the Inspector deems necessary to carry out the purpose of this chapter.  
(’81 Code, § 452) (Ord. passed 7-14-75)

#### **§ 152.51 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.**

For the purpose of making inspections, the Inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the Inspector free access to such dwelling, dwelling unit, or rooming unit, and its premises at all reasonable time, for the purposes of such inspection, examination, and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

(’81 Code, § 4-53) (Ord. passed 7-14-75)

#### **§ 152.52 ALTERNATIVE REMEDIES.**

(A) No dwelling shall be hereafter erected, altered, moved, or changed in occupancy without a Certificate of Occupancy. In any case where the Inspector, after notice and hearing as required herein, finds that a dwelling or dwelling unit is unfit for human habitation, he shall withhold issuance of a Certificate of Occupancy for such dwelling or dwelling unit until such time that he determines that it is fit for human habitation. In addition, in any case where the Inspector, after preliminary investigation as provided for herein, concludes, based upon that investigation, that a dwelling or dwelling unit is unfit for human habitation and believes that the occupancy of such dwelling or dwelling unit could cause imminent peril to life or property from fire or other hazards, he shall withhold issuance of a Certificate of Occupancy for such dwelling or dwelling unit until such time that he determines that it is fit for human habitation.

(B) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this chapter or of any valid order or decision of the Inspector or Board made pursuant to any ordinance or code adopted under authority of this chapter, the Inspector may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or occupancy, to restrain, correct or abate the violation, to prevent the occupancy of the dwellings, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

(C) Nothing in this chapter nor any of its provisions 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 any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this chapter shall constitute either a misdemeanor or, at the election of the town, shall subject the offender to a civil penalty upon the issuance of a citation for said violation as hereinafter provided. The civil penalty, if not paid to the town within 15 days of the issuance of a citation, may be recovered by the town in a civil action in the nature of debt. Said civil penalties shall be in the amount of \$50.00 for each violation and each day any single violation continues shall be a separate violation.

(D) In addition to the civil penalties set out above, any provision of this chapter may be enforced by an appropriate equitable remedy issuing 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 town for equitable relief that there is an adequate remedy at law.

(E) In addition to the civil penalties set out above, any provision of this chapter that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by General Court of Justice. When a violation of such a provision occurs, the town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

(F) 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 abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this chapter. 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 town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. 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 Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned 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.

(G) The provisions of this chapter may be enforced by one, all or a combination of the remedies authorized and prescribed by this section.

(H) Upon determination of a violation of any section of this chapter, the penalty for which is a civil penalty, the Inspector shall proceed to issue a warning citation to the violator. Such citation shall set out the nature of the violation, the section violated, the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated.

(I) An appeal from a warning citation shall be taken within 10 days from the date of said warning citation to the Board of Adjustment.

(J) Where the Inspector determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or Consent Agreement, the appropriate official may amend the warning citation to provide for additional time. The warning citation shall specify that a second citation shall incur a civil penalty, together with costs, and attorney fees.

(K) Upon failure of the violator to obey the warning citation a civil citation shall be issued by the Inspector and either served directly on the violator, his duly designated agent, or registered agent, if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the town or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to appear before the Town Manager, or his designee, within 15 days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise further citations shall be issued.

(L) Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

(M) If the violator fails to respond to a citation within 15 days of its issuance, and pay the penalty prescribed therein, the town may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.

(Ord. 1993-6, passed 10-25-93)

**§ 152.53 VIOLATIONS.**

In addition to the conditions, acts or failures to act that constitute violations specified in this chapter, it shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. It shall be unlawful for the owner of any dwelling, with respect to which an order has been issued pursuant to § 152.31, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition.

(Ord. 1993-6, passed 10-25-93)

**§ 152.54 CONFLICT WITH OTHER PROVISIONS**

In the event any provision, standard or requirement of this Chapter is found to be in conflict with any provision of any other ordinance or code of the Town, 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 Town's jurisdiction shall prevail. The North Carolina Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this Chapter."

**§ 152.55 Validity.**

If any section, subsection, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Commissioners hereby declares that it would have passed this Chapter and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid."

Part IX. All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

This ordinance shall become effective upon its adoption by the Board of Commissioners of the Town of Tryon, North Carolina.

(Ord. 1993-6, passed 10-25-93)