

# Minimum Housing Standards of the Town of Kernersville



*Ordinance O-2019-51  
Adopted 9/3/19*

## Chapter 8.5- Minimum Housing Standards of the Town of Kernersville

### ARTICLE 1. IN GENERAL

#### 8.5.01- Preamble (§ 160A-441).

- A. Pursuant to North Carolina General Statute 160A-441, it is hereby found and declared that there exists within the Town of Kernersville certain dwellings which are unfit for human habitation and being inimical to the welfare and dangerous and injurious to the health, safety and morals of the residents of the Town; and that a public necessity exists for the repair, closing or demolition of such dwellings due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to 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 Town of Kernersville.
- B. In addition, it is hereby found and declared that there exists within the Town of Kernersville certain abandoned structures which the Board of Aldermen may find to be 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; and that a public necessity exists for the repair, closing or demolition of such structure pursuant to the same provisions and procedures as are prescribed herein for the repair, closing or demolition of dwellings found to be unfit for human habitation.

#### 8.5.02- Scope.

This code shall apply to all existing housing and to all housing hereafter constructed within the Town of Kernersville. Portable, mobile, or demountable buildings and structures, when used or intended to be used for housing within the Town, shall be subject to this Code. This chapter establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment, or facilities except as provided in this code.

#### 8.5.03- Definitions.

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

- **ABANDONED** means a residential structure on a parcel that is vacant for thirty (30) days, in violation of one (1) or more minimum housing standards of the Town Code, and the issues in violation have not been corrected within thirty (30) days of notification.
- **ALTER OR ALTERATION** means any change or modification in construction or occupancy.
- **APPROVED** shall mean approved by the Housing Administrator.
- **APPROVED SEWAGE DISPOSAL SYSTEM** means a sewage disposal system approved by the City/County Utilities Commission or the Health Department.
- **APPROVED WATER SUPPLY** means a water supply approved by the City/County Utilities Commission or the Health Department.
- **BOARD UP** means the boarding up of any means of egress and ingress, including, without limitation, windows and doors, to an abandoned residential structure.

- **BUILDING** shall mean any structure built for the support, shelter, or enclosure of persons, animals, chattels or property of any kind. **BUILDING** shall be construed as if followed by the words "or part thereof".
- **CELLAR** shall mean a portion of a building located partly or entirely underground having inadequate access to light and air from windows located partly or fully below grade level.
- **DETERIORATED** shall mean that a dwelling is unfit for human habitation and can be altered, repaired or improved to comply with all the minimum standards established by this ordinance.
- **DILAPIDATED** shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all the minimum standards established by this ordinance.
- **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, except that it does not include any manufactured home or mobile home used solely for a seasonal vacation purpose.
- **DWELLING UNIT** shall mean any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating whether or not such unit is occupied or not.
- **EXIT** shall mean a clear and unobstructed route of departure from the interior of a building or structure to the exterior at street or grade level.
- **EXTERMINATION** shall mean the control and elimination of insects, rodents or other pests by eliminating their harboring places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or by other recognized and legal pest elimination methods.
- **FAMILY** means one or more persons living together and having common living, sleeping, cooking and eating facilities.
- **FLOOR SPACE** shall mean the total square feet of space of all habitable rooms.
- **GARBAGE** shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- **HABITABLE ROOM** shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding but not limited to bathrooms, water closet compartments, laundries, heater rooms, foyers and/or communicating corridors, closets or storage spaces.
- **HOUSING ADMINISTRATOR** and designated persons shall mean any employee of the Town of Kernersville appointed by the Town Manager with the responsibility of enforcing this chapter.
- **MAY** as used in this chapter means permissible.
- **MEANS OF EGRESS** shall mean a continuous and unobstructed way of exit travel from point in a building or structure to a public way.

- **MULTIPLE DWELLING** shall mean any building or portion thereof, which is designed, built, rented, leased, subleased or otherwise contracted let or hired out to be occupied, or which is occupied as the home or residence of two (2) or more families living independently of each other and doing their own cooking in their respective residences and shall include but not limited to flats and apartments.
- **OCCUPANT** shall mean any person living, sleeping, cooking and eating in, or having actual possession of a dwelling unit.
- **OPERATOR** shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units are rented, leased, sub leased or otherwise contracted.
- **ORDER** as used in this chapter means a directive given from the Housing Administrator or Building Inspector.
- **OWNER** shall mean the holder(s) of the title in fee simple, and every mortgage of record.
- **PARTIES IN INTEREST** shall mean all individuals, associations, corporations who have interests of record in a dwelling and any who are in possession thereof.
- **PERSON** shall mean and include any individual, firm, corporation, association or partnership or any other legal entity.
- **PLUMBING** shall mean the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and public or private water supply systems to their connection with any point of public disposal.
- **PREMISES** shall mean a lot, plot or parcel of land including the buildings, dwellings and structures within the definitions as defined herein.
- **PROPERTY**, when referred to in this chapter, shall refer only to residential properties and not include non-residential properties.
- **REMOVAL** shall mean the demolition and approved disposal of the entire building. The premises shall be clear and free of any debris and in a manner as not to leave any holes or pockets that may retain water.
- **REQUIRED** means mandatory by some provision of this chapter.
- **RESIDENT** as it pertains to this chapter is any person inhabiting a dwelling or dwelling unit within the town limits of Kernersville, North Carolina.
- **RESIDENTIAL OCCUPANCY** shall mean buildings in which families or households live or in which sleeping accommodations are provided. Such buildings shall include, but not limited to the following: dwellings, multiple dwellings, lodging houses and all dormitories.
- **RUBBISH** shall mean combustible or non-combustible waste materials, except garbage, and the term shall include but not limited to ashes, paper, rags, cartons, wooden boxes, rubber, leather, tin cans, metals, mineral matter, glass, crockery, dust and discarded appliances.
- **SHALL** as used in this chapter means mandatory.

- **STAIRWAY** shall mean one or more flights of stairs and the necessary landings and platforms connecting them to form a continuous and uninterrupted passage from one story to another in a building or structure.
- **STORY** shall mean that part of a building comprised between a floor and the floor or roof above.
- **STRUCTURE** shall mean that which is built or constructed, a 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 any part thereof".
- **SUBSTANDARD** shall mean any condition existing in any housing, building or structure which does not meet the standards of fitness of this chapter. This will not be construed as saying that a single substandard condition will place said structure, building or housing in an unfit for human habitation state. This is to say that a situation does exist that should be repaired, altered or improved.
- **SUPPLIED** shall mean paid for, furnished, provided by or under control of the owner or operator.
- **UNFIT FOR HUMAN HABITATION** is defined in Article II.
- **VACANT** means a residential structure on a parcel that lacks the habitual presence of human beings who have a legal right to be on the premises or at which substantially all residential occupancy has ceased.
- **VENTILATION** means the process of supplying and removing air by natural or mechanical means to or from any dwelling unit.
- **MEANING OF CERTAIN WORDS-** When the words "dwelling", "dwelling unit", "multiple dwelling", or "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof".

**8.5.04- Town Personnel (§ 160A-448).**

A. Establishment of the Housing Administrator. The Housing Administrator is hereby established and may exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this ordinance, including the following powers in addition to others herein granted:

1. To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitations.
2. To administer oaths, affirmations, examine witnesses and receive evidence.
3. To enter upon premises for making examinations in a manner that will do the least possible inconvenience to the persons in possession.
4. To appoint and fix the duties of officers, agents and employees necessary to carry out the purposes of the ordinances; and
5. To delegate any of his functions and powers under the ordinance to other officers and other agents.

B. Refusal to Permit Entry. If the owner or occupant refuses admission for the purpose of inspection, admission may be obtained through the provisions of Article 4A of Chapter 15 of the General Statutes of North Carolina. It shall be unlawful for any owner or person in possession of premises upon which housing is located in the Town, to refuse, after being presented with a warrant issued under General Statute of the State of North Carolina, to permit the Housing Administrator or his duly appointed

agents to enter upon the said premises for the purpose of making examinations as authorized by this chapter. Violation of this section shall constitute a misdemeanor.

- C. Non-Liability of Town Personnel. No officer, agent or employee of the Town of Kernersville shall render himself 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 duties under this chapter. Any suit brought against any officer, employee or agent of the Town of Kernersville as a result of any act required or permitted in the discharge of the duties under this chapter shall be defended by the Town attorney until the final determination of the proceedings therein.

**8.5.05- Application of North Carolina Uniform Residential Building Code (§ 143-139).**

All repairs, alterations or improvements shall be performed in accordance with provisions of the North Carolina Residential Building Code as established and set forth in North Carolina General Statutes Chapter 143, Article 9 which is hereby incorporated within this ordinance as if fully set out herein.

**8.5.06-Emergency Cases.**

In addition to the standards of this chapter, emergency cases exist where it reasonably appears there is immediate danger to the life or safety of any person or to the safety of other property. In these cases, Section 110 of the North Carolina Fire Code (Unsafe Buildings) as well as North Carolina General Statutes § 160A-426 through 434 (Unsafe Buildings Condemned in Localities) apply.

**8.5.07-Tenant Responsibility.**

As set forth in North Carolina General Statutes Chapter 42, Article 5, in all dwelling units rented in the Town of Kernersville; before enforcement of any provisions of this chapter, the tenant shall:

- C. Provide notification of needed repairs to the property owner in writing.
- D. Keep that part of the premises that the tenant occupies and uses as clean and safe as the conditions on the premises permit and cause no unsafe or unsanitary conditions in the common areas and remainder of the premises that the tenant uses.

8.5.08-8.5.20- Reserved

**ARTICLE II. MINIMUM STANDARDS (§ 160A-444)**

A dwelling is unfit for human habitation if the Housing Administrator finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the town. For the purpose of guiding the Housing Administrator in determining the fitness of a dwelling for human habitation, the following standards are required to be met in all dwelling units in the town:

**8.5.21- Heat Source Required (§ 160A-443.1).**

- A. Every dwelling unit leased as rental property within the town shall have, at a minimum, a central or electric heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of 68 degrees Fahrenheit measured three feet above the floor between November 1 and March 30 of any year.
- B. If a dwelling unit contains a heating system or heating appliances that meet the requirements of subsection (A) of this section, the owner of the dwelling unit shall not be required to install a new heating system or heating appliances, but the owner shall be required to maintain the existing heating system or heating appliances in a good and safe working condition. Otherwise, the owner of the

dwelling unit shall install a heating system or heating appliances that meet the requirements of subsection (A) of this section and shall maintain the heating system or heating appliances in a good and safe working condition.

- C. Portable kerosene or electric heaters are not acceptable as a permanent source of heat as required by subsection (A) of this section but may be used as a supplementary source in single-family dwellings and duplex units. An owner who has complied with subsection (A) shall not be held in violation of this section where an occupant of a dwelling unit uses a portable kerosene or electric heater as a primary source of heat.

#### **8.5.22- Minimum Facilities and Equipment Required (§ 160A-444).**

- A. Sanitary Facilities Required- Every dwelling unit shall contain not less than a kitchen sink, a lavatory wherein a commode and a sink or washbowl shall be located, and a tub or shower, all in good working condition and properly connected to an approved water supply and approved sewage disposal system.
- B. Location of Sanitary Facilities- All required sanitary facilities shall be located within the dwelling unit and shall be accessible to the occupants. The lavatory, and at least one tub or shower shall be operable and located in a room affording privacy to the user.
- C. Hot and Cold Water Supply- Every dwelling unit shall have connected to the sink, lavatory, and tub or shower an adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to an approved water supply.
- D. Plumbing- All plumbing shall be installed in accordance with the appropriate plumbing codes and shall be maintained in a safe and good working condition.
- E. Cooking Equipment- All cooking equipment shall be installed in accordance with the appropriate building, gas or electrical codes and shall be maintained in a safe and good working condition.
- F. Cabinet and Kitchen Storage- Each dwelling unit shall have a specific kitchen space, which contains a sink with counter workspace and having hot and cold running water and adequate space for storing food and cooking utensils.
- G. Fire Protection- No person shall occupy as owner-occupant or allow another to occupy, any building or structure, which does not comply with applicable provisions of the Fire Prevention Code of the Town of Kernersville or the State of North Carolina Fire Prevention Code.
- H. Ventilation- Every habitable space shall have not less than one openable window. The openable area of any window shall equal at least 45% of that window area.
- I. Smoke Alarms- In dwelling units rented, property owner to provide operable smoke alarms as set forth in North Carolina General Statute 42-42.
- J. Carbon Monoxide Alarms- In dwelling units rented, property owner to provide operable carbon monoxide alarms as set forth in North Carolina General Statute 42-42.

#### **8.5.23- Minimum Requirements for Electrical Systems (§ 160A-444).**

- A. Fixtures, Receptacles, Equipment, and Wiring- All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, and capable of being used and installed for the purpose in which it was intended.
- B. Capacity of Service Supply- The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the total load required.
- C. Electrical Lights and Outlets- Every dwelling shall be adequately and safely wired for electric lights and convenient receptacles. Every habitable room shall have provision for adequate lighting and other necessary electrical service, with kitchen, bath, hall and exits having ceiling and/or wall mounted fixtures.
- D. Lights in Multifamily Halls and Stairways- All halls and stairways in multifamily areas shall be adequately lighted as required by the North Carolina State Building Codes.

#### **8.5.24- Minimum Requirements for the Exterior and Interior of Structures (§ 160A-444).**

- A. Foundation- The buildings foundation, walls, piers or other elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.
- B. Exterior Walls- The exterior walls shall be substantially weathertight and watertight and shall be maintained in sound condition and good repair.
- C. Roofs- Roofs shall be maintained in a safe manner and capable of supporting the normal load placed thereon and be substantially weathertight and watertight and be maintained in sound condition and good repair.
- D. Chimney- Any chimney shall be maintained in a safe and sound condition showing no loose brick, mortar, or cracks. Any chimney with such signs may be properly closed down and sealed off.
- E. Means of Egress- Every dwelling unit shall have two (2) safe, unobstructed means of egress leading to a safe and open space at grade level, except where one means of egress is permitted by the North Carolina State Building Code.
- F. Stairs- Every inside and outside stair shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon.
- G. Porches and Appurtenances- Every outside porch and any appurtenances thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon.
- H. Exterior Windows and Doors of Habitable Area- Every window and door (including basement or cellar door and hatchway) shall be substantially weathertight, watertight, rodent proof and shall be kept in sound working condition. The openable area of any window shall equal at least 45% of that window area.
- I. Basement/Cellar/Crawlspace Windows, Doors, and Hatchways- shall be kept in sound working condition and rodent proof.
- J. Doors- Every dwelling unit shall be equipped with a secure, lockable exterior door.
- K. Interior Floors, Walls, Ceilings- Every floor, wall or ceiling shall be kept in good sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon, free from cracks and holes to reduce the occurrence of air or rodents to penetrate the room. There shall be no newspaper, cardboard, or other highly combustible coverings allowed.
- L. Structural Supports- Every structural element of the dwelling unit shall be structurally sound and have no deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.
- M. Protective Handrails and Railings- Handrails and railings shall be maintained and kept in a safe and sound structural condition.
- N. Residential Accessory Structures- Garages, storage buildings and other accessory structures shall be maintained and kept in a safe and sound structural condition.

**8.5.25- Minimum Requirements for Space and Use (§ 160A-444).**

- A. Required Space and Use in Sleeping Rooms- In every dwelling unit at least 80 square feet of bedroom space shall be provided for the first occupant; at least 20 square feet of additional bedroom floor space shall be provided for the second occupant; at least thirty 30 square feet of additional bedroom floor space shall be provided for each additional occupant over the number of two (children one year and under shall not be counted).
- B. Required Space in Dwelling Unit- Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant and at least 100 additional square feet of floor area per additional occupant. The floor area shall be calculated on the basis of total area of all habitable rooms.
- C. Occupancy of Dwelling Unit Below Grade- Basement or cellar space shall not be used as a habitable room or dwelling unit unless meeting all specifications for habitable rooms.

**8.5.26- Minimum Requirements for Sanitation (§ 160A-444).**

- A. Sanitation and Cleanliness- Every occupant of a dwelling unit shall be responsible for maintaining it in a clean and sanitary condition. Every owner of a multiple dwelling shall maintain in a clean and sanitary condition the common areas of a dwelling and premises thereof.



- B. Garbage and Rubbish Storage- 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 storage facilities. In the case of one and two family dwellings, the persons who occupy and control the dwellings shall be responsible for providing the approved receptacles for disposing of garbage and rubbish. In the case of multifamily housing, the property owner shall be responsible for providing the approved receptacles for the storage of garbage and rubbish.
- C. Extermination- Every occupant of a single dwelling and every owner of a building containing two or more dwelling units, shall be responsible for the extermination of any insects, rodents, or other pests within the building or premises by a generally accepted method. However, in a single dwelling, the property owner shall be responsible for extermination if it can be determined by an inspector the infestation was caused by defects in the structure that make the premises not impervious to insects, rodents, or other pests.

8.5.27-8.5.40- Reserved

### **ARTICLE III. ADMINISTRATION AND ENFORCEMENT**

#### **8.5.41- Dwellings Unfit for Human Habitation (§ 160A-443).**

As noted in section 8.5.01, there exists within the Town of Kernersville certain dwellings that are unfit for human habitation. For the purpose of enforcement of this chapter and conformance with North Carolina General Statute 160A-443, it must be determined whether a dwelling unfit for human habitation meets criteria as deteriorated or dilapidated.

- A. Deteriorated Dwellings. Dwellings that are unfit for human habitation and the repair, alteration or improvement of the dwelling can be made for 50% or less of the present value of the structure are defined as deteriorated.
- B. Dilapidated Dwellings. Dwellings that are unfit for human habitation but the repair, alteration or improvement of the dwelling cannot be made for 50% or less of the present value of the structure are defined as dilapidated.

#### **8.5.42- Procedure for Deteriorated Dwellings Unfit for Human Habitation (§ 160A-443).**

- A. Step 1: Notification to Housing Administrator and Hearing. That whenever a petition is filed with the Housing Administrator by a public authority or by at least five residents of the town charging that any dwelling is unfit for human habitation or whenever it appears to the Housing Administrator (on his own motion) that any dwelling is unfit for human habitation, the Housing Administrator shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Housing Administrator (or his designated agent) at a place within the county in which the property is located fixed not less than 10 days nor more than 30 days after the serving of the complaint; that 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; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Housing Administrator.
- B. Step 2: Order Issued and Served. That if, after notice and hearing, the Housing Administrator determines that the dwelling under consideration is deteriorated and unfit for human habitation, 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 requiring the owner, within the time specified (not to exceed 90 days), to repair, alter or improve the dwelling in order to render it fit for human habitation.

1. Vacating and Closing the Property. 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 as directed in the order shall make the dwelling subject to the issuance of an unfit order under subsection C (Step 3).
2. Time Specified in the Order- When the Housing Administrator issues an order to repair, alter, or improve, the owner is to correct all violations or demolish within 30 days. After the specified time limit of the order to repair, alter, or improve has expired, the Housing Administrator will re-inspect the structure to verify that the violations have been corrected. If the required work has not been completed, but the owner has made substantial progress, the Housing Administrator may grant an additional 30 days to complete the repairs. The Housing Administrator may grant a third and final 30-day extension, for a total of up to 90 days, if substantial work has occurred during each extension, as verified through subsequent re-inspections. If all violations are corrected within the specified time limit, the property is no longer unfit for human habitation and the case will be closed.

C. Step 3: Failure to Comply with Order.

1. Failure to Comply with Order to Repair, Alter or Improve, or to Vacate and Close- That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Housing Administrator may cause the dwelling to be repaired, altered or improved or to be vacated and closed; that the Housing Administrator may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the Housing Administrator set forth in this subdivision shall not be exercised until the Board of Aldermen 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 which the Housing Administrator shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.
2. Dwellings Ordered Vacated and Closed- Dwellings ordered vacated and closed by the Housing Administrator shall have all outer doors firmly locked and basement, cellar and first-story windows barred or boarded to prevent entry, and shall not again be used for human habitation until written approval is secured from the Housing Administrator.
3. Failure to Comply with Order to Vacate- If any occupant fails to comply with an order to vacate a dwelling; the Housing Administrator may file a civil action in the name of the town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the

defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in North Carolina General Statute 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 Housing Administrator produces a certified copy of an ordinance adopted by the Board of Aldermen pursuant to subdivision (C1) 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 North Carolina General Statute 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in North Carolina General Statute 7A-228, and the execution of such judgment may be stayed as provided in North Carolina General Statute 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 Aldermen has ordered the Housing Administrator to proceed to exercise his duties under steps 3 and 4 of this section to vacate and close or remove and demolish the dwelling.

- D. Step 4: Owner Abandoned Intent to Repair, Alter, or Improve. If the Board of Aldermen have adopted an ordinance as provided in subdivision (C) of this section, or the Housing Administrator shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subdivision (B), and if the dwelling has been vacated and closed for a period of one year pursuant to the ordinance or order; then if the Board of Aldermen shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the Board of Aldermen 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 it is determined 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; or
  2. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding 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.

This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the Housing Administrator shall effectuate the purpose of the ordinance.

#### **8.5.43- Procedure for Dilapidated Dwellings Unfit for Human Habitation (§ 160A-443).**

- A. Step 1: Notification to Housing Administrator and Hearing. That whenever a petition is filed with the Housing Administrator by a public authority or by at least five residents of the town charging that any

dwelling is unfit for human habitation or whenever it appears to the Housing Administrator (on his own motion) that any dwelling is unfit for human habitation, the Housing Administrator shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Housing Administrator (or his designated agent) at a place within the county in which the property is located fixed not less than 10 days nor more than 30 days after the serving of the complaint; that 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; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Housing Administrator.

- B. Step 2: Order Issued and Served. That if, after notice and hearing, the Housing Administrator determines that the dwelling under consideration is dilapidated and unfit for human habitation, 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 requiring the owner, within the time specified (not to exceed one year), to remove or demolish such dwelling. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the city 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).
1. Exception to Order. Any owner of a dwelling ordered demolished under this section will be given the opportunity to bring the dwelling into compliance under the following conditions:
    - i. The owner has signed an "Intent to Repair" letter as provided by the Community Development Department.
    - ii. A licensed General Contractor has been hired and said contractor has determined a timeline for all repairs necessary to bring the structure into compliance.
    - iii. The Community Development Department accepts the contractor's timeline for repairs (within one year).
    - iv. All work must be completed within one (1) year of order to remove or demolish.
- C. Failure to Comply with Order to Remove or Demolish. That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in this subdivision shall not be exercised until the governing body 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 which the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

#### **8.5.44- Boarded Up Residential Structures.**

- A. Boarded Up Residential Structures Deemed Unfit. All boarded up residential structures are considered unfit for human habitation and may not become occupied until all current violations have been brought into compliance. When a boarded up residential structure is placed on an inventory maintained by the Community Development Department, the Housing Administrator shall notify the owner by the provisions of section 8.5.49. The owner shall have 30 days to provide entry into the dwelling, or the

Housing Administrator may obtain admission through the provision of Article 4A of Chapter 15 of the General Statutes of North Carolina.

- B. Assessment of Boarded Up Residential Structures. Upon entry, the Housing Administrator or his duly appointed agents will determine if the structure is deteriorated or dilapidated. Deteriorated structures are subject to the provisions of section 8.5.42, while dilapidated structures are subject to the provisions of section 8.5.43.
- C. Standards for Securing Boarded Up Residential Structures. All residential structures must be secured as to not allow vagrants or other unwanted persons to enter the structure. If securing the property involves the boarding up of any openings, U.S. Department of Housing and Urban Development boarding specifications must be followed. If the property is not secure, a notice will be sent by certified mail or in person requiring it to be secured within fifteen (15) days of being notified. After that compliance period, the town shall secure the property. The cost of the same shall be the responsibility of the property owner and if not paid within thirty (30) days of notice shall be collected as a lien as described in section 8.5.47.

#### **8.5.45- Catastrophic Damage to Residential Structures.**

- A. Securable Structures. Structures that have suffered catastrophic damage from fire or other natural disaster, but are still able to be secured as to not allow vagrants or other unwanted persons to enter the structure, are subject to the provisions of section 8.5.43 and 8.5.44 (C). The Housing Administrator will notify the property owner as well as the insurance company charged with evaluating the claim of their responsibilities under this article.
- B. Non-Securable Structures. Structures that have suffered catastrophic damage and cannot be secured as to not allow vagrants or other unwanted persons to enter the structure are subject to the provisions in section 8.5.43. No exceptions will be made on the order to remove or demolish structures that cannot be secured.

#### **8.5.46- Buildings under Construction.**

This chapter does not regulate buildings which are currently undergoing new construction, renovation or rehabilitation and which are in compliance with all applicable ordinances, codes and regulations. The same must have obtained all necessary permits as required and shall be proceeding diligently to completion.

#### **8.5.47- Liens (§ 160A-443).**

- A. Lien Against Real Property Where Cost Incurred- That the amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Housing Administrator 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 North Carolina General Statutes.
- B. Lien Against Other Real Property- The amount of the cost is also a lien on any other real property of the owner located within the town limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.
- C. Sale of Materials- If the dwelling is removed or demolished by the Housing Administrator, 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 Housing Administrator, 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. Nothing in this section shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

**8.5.48- Notice of Order to Organizations that Restore Dwellings (§ 160A-443).**

That whenever a determination is made pursuant to this section 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 Housing Administrator, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for providing affordable housing. The Housing Administrator or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Housing Administrator to wait 45 days before causing removal or demolition.

**8.5.49- Service of Complaints and Orders (§ 160A-445).**

A. Complaints or orders issued by the Housing Administrator shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

B. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Housing Administrator in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the Housing Administrator makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provisions of this Part. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

**8.5.50- Appeals (§ 160A-446).**

A. An appeal from any decision or order of the Housing Administrator may be taken by any person aggrieved thereby or by any officer, board or commission of the town. Any appeal from the Housing Administrator shall be taken within 10 days from the rendering of the decision or service of the order by filing with the Housing Administrator and with the Board of Adjustment (as authorized by North Carolina General Statute § 160A-388 (b1)) a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Housing Administrator 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 Housing Administrator 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 Housing Administrator 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 Housing Administrator certifies to the Board of Adjustment, after the notice of appeal is filed with him, that because of 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 that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Housing Administrator, by the Board of Adjustment, or by a court of record upon petition made pursuant to subsection (D) of this section.

- 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 of Adjustment 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 shall have all the powers of the Housing Administrator, but the concurring vote of four members of the Board of Adjustment shall be necessary to reverse or modify any decision or order of the Housing Administrator. The Board of Adjustment shall have power also in passing upon appeals, when practical difficulties or 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 shall be observed, public safety and welfare secured, and substantial justice done.
- C. Every decision of the Board of Adjustment 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.
- D. Any person aggrieved by an order issued by the Housing Administrator or a decision rendered by the Board of Adjustment may petition the superior court for an injunction restraining the Housing Administrator from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Housing Administrator 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 shall not be 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 ordinance or any valid order or decision of the Housing Administrator or Board of Adjustment made pursuant to this ordinance, the Housing Administrator 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.

#### **8.5.51- Additional Penalties for Violation of Chapter (§ 14-4).**

- A. Fine. Each violation of any provision of this chapter shall constitute a Class 3 misdemeanor. In addition, the initial violation shall be subject to a civil penalty of two hundred and fifty dollars (\$250.00). Each day of any continuing violation shall constitute a separate violation and shall be subject to a civil penalty of fifty dollars (\$50) per day. This includes any owner who fails to comply with an order to repair or to improve, vacate or close any occupied dwelling determined unfit for human habitation or who permits the re-occupancy of an unfit dwelling. If a person fails to pay the civil penalty within thirty (30) days after being notified of the amount due, the Town may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

B. Other Remedies. The provisions of this chapter may also be enforced through any equitable or other remedy deemed appropriate by the Town of Kernersville and permitted by law.

8.5.52-8.5.60- Reserved