

CHAPTER 4: BUILDING REGULATION AND CODES ENFORCEMENT

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ARTICLE I: IN GENERAL

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§ 4-1 PURPOSE.

The provisions of this chapter are to provide the necessary inspections and enforcement of the following:

(A) *North Carolina State Building Code*, inclusive of all volumes and to comply with the provisions of G.S. Chapter 160A, Article 19, Part 5, Building Inspections;

(B) The construction of buildings and other structures;

(C) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air conditioning systems;

(D) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;

(E) Other regulatory codes that may be specified by the City Council.

(Ord. passed 8-30-94)

§ 4-2 ADOPTION OF NORTH CAROLINA STATE BUILDING CODE.

The *North Carolina State Building Code*, as adopted by the North Carolina Building Code Council including such amendments hereafter adopted by the Building Code Council incorporating regulations for building, residential building, electricity, gas, heating and air conditioning, plumbing, fire prevention and other subjects are hereby adopted by reference and declared to be the building code of the city, except as such codes may be amended.

(Ord. passed 8-30-94) Penalty, see § 4-150 et seq.

§ 4-3 FEES.

Permit fees shall be as established by the City Council. A copy of the fee schedule shall be available to the public in the office of the Planning and Inspections Department. (Ord. passed 8-30-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

§ 4-4 STANDARDS FOR VACATING AND CLOSING STRUCTURES.

(A) Whenever a structure is ordered vacated and closed under this chapter, the following standards shall be met before the structure is considered vacated and closed:

(1) The owner, occupant and/or tenant shall be required to move out of the structure and the structure shall not again be occupied until it fully complies with all applicable local and state codes. The structure shall not be used for storage. Storage of materials of any kind shall constitute a use and the structure shall not be considered vacated and closed.

(2) The owner shall clear the structure and property of all trash, debris and other items which could cause or threaten to cause infestation of insects, rodents or other pests or cause or threaten to cause a fire hazard. Maintenance of the grounds is required to the extent that at no time shall the property be deemed in violation of the city nuisance or junk car provisions.

(3) The owner shall insure that all windows, doors, and crawl space openings are secured using plywood or similar materials (½ inch thickness) cut to fit the specific openings. Boards will then be painted to increase weather resistance.

(4) The owner shall insure that the exterior foundation, walls and roofs shall be improved and maintained in a sound condition/good repair providing safe conditions. Also, the exterior shall be protected with paint or other protective covering to prevent penetration of moisture or weather.

(B) These standards must be maintained at all times while the structure is considered vacated and closed. Failure to maintain the structure as such will constitute a violation of the applicable provisions of this chapter.

(Ord. passed 2-19-02) Penalty, see § 4-150 et seq.

ARTICLE II. INSPECTIONS DEPARTMENT

ARTICLE II: INSPECTIONS DEPARTMENT

Section

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§ 4-26 CREATED.

The Planning and Inspections Department, referred to throughout this chapter as the Department, shall be the inspections department of the city.

(Ord. passed 8-30-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

§ 4-27 ENFORCEMENT AUTHORITY.

(A) Officials of the Planning and Inspections Department are hereby authorized, empowered and directed to enforce all the provisions of this chapter and the regulatory codes adopted in this chapter.

(B) It shall be the duty of the Department to enforce all of the provisions of this chapter and of the regulatory codes specified by the City Council, and to make all inspections necessary to determine whether or not the provisions of this chapter and such codes are being met.

(Ord. passed 8-30-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

§ 4-28 RIGHT OF ENTRY.

Inspectors from the Planning and Inspections Department shall have the right of entry, with an appropriate warrant or permission from the owner or occupant, on any premises within the jurisdiction of the regulatory codes adopted by this chapter at reasonable hours for the purpose of inspection or enforcement of the requirements of this chapter and the regulatory codes, upon presentation of proper credentials.

(Ord. passed 8-30-94; Am. Ord. passed 3-16-99)

§ 4-29 CONFLICTS OF INTEREST.

No member of the Planning and Inspections Department or other individual contracting with the city to conduct inspections shall be financially interested in or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alterations, or maintenance of any building within the city's jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of the Department or other individual contracting with the city to conduct inspections shall engage in any work that is inconsistent with his duties or with the interest of the city.

(Ord. passed 8-30-94; Am. Ord. passed 3-16-99)

§ 4-30 FAILURE TO PERFORM DUTY.

If any member of the Planning and Inspections Department shall willfully fail to perform the duties required of him by the State Building Code, the North Carolina General Statutes or by the regulatory codes of the city, or willfully shall issue a permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, he shall be guilty of a misdemeanor.

(Ord. passed 8-30-94; Am. Ord. passed 3-16-99) Penalty, see § 4-150 et seq.

§ 4-31 RECORDS AND REPORTS.

The Planning and Inspections Department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance granted, and all other work and activities of the Department. These records shall be kept in the manner and for the periods prescribed by the State Department of Cultural Resources. Periodic reports shall be submitted to the City Council and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require.

(Ord. passed 8-30-94; Am. Ord. passed 3-16-99)

§ 4-32 OVERSIGHT NOT TO LEGALIZE VIOLATION.

No oversight or dereliction of duty on the part of any inspector or other official or employee of the Department shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code adopted by this chapter.

(Ord. passed 8-30-94)

§ 4-33 APPEALS.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of the city inspection department pertaining to the State Building Code or other state building laws shall be taken to the Commissioner of Insurance or his designee or other official specified in G.S. § 143-139,

by filing a written notice with him and with the inspection department within a period of ten days after the order, notice or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

(Ord. passed 8-30-94)

ARTICLE III. PERMITS

Section

ARTICLE III: PERMITS

4-63	Permits
4-64	Posting of bond for removal or demolition of building
4-65	Building moving permit bond
4-66	Application
4-67	Revocation

§ 4-63 PERMITS.

(A) No person shall commence or proceed with any of the following without first securing from the Planning and Inspections Department a zoning permit and sedimentation and erosion control plan approval, if applicable, any and all permits required by the State Building Code and any other applicable state and local laws:

- (1) The construction, alteration, repair, removal, or demolition of any building or other structure;
- (2) The installation, extension or general repair of any plumbing system;
- (3) The installation, extension, alteration, or general repair of any heating or cooling system;
- (4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment;

(B) The permit shall be in writing and shall contain a provision that the work shall comply with the State Building Code and all other applicable state and local laws.

(Ord. passed 8-30-94; Am. Ord. passed 3-16-99) Penalty, see § 4-150 *et seq.*

§ 4-64 POSTING OF BOND FOR REMOVAL OR DEMOLITION OF BUILDING.

In all cases of removal or demolition of a building or structure, a good and sufficient bond shall be posted by the property owner or by his contractor at the time of application for a permit to ensure complete removal or demolition, including all rubble and debris. Failure on the part of the property owner or his contractor to completely demolish, remove, and clear the premises after 30 days notice by the Inspector shall be cause for forfeiture of such bond.

(Ord. passed 8-30-94)

§ 4-65 BUILDING MOVING PERMIT BOND.

No person shall move any house or building upon or across the public streets or sidewalks without the written consent of the City Council and the deposit of a good and sufficient bond to cover damage done to such street or sidewalk or to any property.

(Ord. passed 8-30-94) Penalty, see § 4-150 *et seq.*

§ 4-66 APPLICATION.

Written application shall be made for all permits required by this article and shall be made on forms provided by the Planning and Inspections Department. Such application shall be made by the owner of the building or structure affected or by his authorized agent or representative.

(Ord. passed 8-30-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

§ 4-67 REVOCATION.

The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for such revocation. Permits shall be revoked for any material departure from the approved application, plans or specifications, for refusal or failure to comply with proper orders of the Inspector, for refusal or failure to comply with the requirements of this chapter and the appropriate regulatory codes or for false statements or misrepresentations made in securing such permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(Ord. passed 8-30-94)

ARTICLE IV. HUMAN HABITATION STANDARDS

Section **ARTICLE IV: HUMAN HABITATION STANDARDS**

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DIVISION 1 GENERALLY

§ 4-68 TITLE.

This article shall be known as the *Human Habitation Standards* for the city, and may be cited as such, and will be referred to hereinafter as “this article.”
(Ord. passed 5-15-95)

§ 4-69 FINDINGS.

Pursuant to G.S. § 160A-441, it is hereby found and declared that there exist in the jurisdiction 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 jurisdiction.
(Ord. passed 5-15-95)

§ 4-70 PURPOSE.

In order to protect the health, safety and welfare of the residents of the jurisdiction as authorized by G.S. Chapter 160A, Article 19, Part 6, it is the purpose of this article 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.
(Ord. passed 5-15-95)

§ 4-71 SCOPE; JURISDICTION.

The provisions of this article shall apply to all existing housing and to all housing constructed within the ordinance making jurisdiction of the city. Portable, mobile or demountable

buildings or structures, including trailers, manufactured homes and mobile homes when used or intended for use for housing within the ordinance making jurisdiction of the city, shall be subject to the applicable provisions of this article. This article establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this article.

(Ord. passed 5-15-95; Am. Ord. passed 3-19-02; Am. Ord. passed 4-16-02)

§ 4-72 CONFLICT WITH OTHER PROVISIONS.

In any case where a provision, standard or requirement of this article is found to be in conflict with a provision of this code of ordinances or codes of the city, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the people shall prevail. The *North Carolina State 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 article.

(Ord. passed 5-15-95)

§ 4-73 DEFINITIONS.

(A) *Interpretation.*

(1) In the interpretation and enforcement of this article, the definitions listed in this section shall have the meaning indicated.

(2) Words used or defined in one tense or form shall include other tenses and derivative forms; words used in the singular include the plural; words used in the plural include the singular, unless the natural construction of the wording indicates otherwise; and words used in the masculine include the feminine.

(3) The word “shall” is always mandatory and not merely directory. The word “may” is permissive.

(4) The word “city” shall mean the incorporated City of Eden, North Carolina.

(5) Whenever the words “dwelling,” “dwelling unit,” “rooming house,” “rooming unit,” or “premises” are used in this article, they shall be construed as though they were followed by the words “or any part thereof.”

(B) *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 inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DILAPIDATED. A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article except at a cost in excess of 50% of its value, as determined by the Director, which determination shall be made on the basis of findings of fact made by the Director.

DIRECTOR. The Director of the Planning and Inspections Department, or his designee, who is authorized by this article to exercise the powers prescribed.

DWELLING. 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 which is used solely for a seasonal vacation purpose.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

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 other recognized and legal pest elimination methods approved by the Director.

GARBAGE. The organic waste resulting from the handling, preparation, cooking and consumption of food.

GOVERNING BODY. The City Council of the City of Eden.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or connecting 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.

MANUFACTURED HOME or MOBILE HOME. A structure as defined in G.S. § 143-145(7).

MULTI-FAMILY 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, firm or corporation that is the holder of the title in fee simple, or:

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

(2) Shall be a mortgagee or deed of trust beneficiary of record in any dwelling, dwelling unit or rooming unit.

PARTIES IN INTEREST. All individuals, associations and corporations who have interests of record in a dwelling, dwelling unit or rooming unit and any who are in possession thereof.

PERSON. Any individual, corporation, firm, partnership, association or other legal entity.

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 fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. Any housing authority or any officer who is in charge of any department or branch of the government of the city or of Rockingham County or of the State of North Carolina relating to health, fire, building regulations, or other activities concerning dwellings in the city.

PUBLIC OFFICER. The officer or officers who are authorized by this article to exercise the powers prescribed by this article and by G.S. Chapter 160A, Part 6.

REASONABLE COST. A dwelling that is unfit for human habitation and can be repaired, altered or improved to comply with all the minimum standards established by this article at a cost not in excess of 50% of its value, as determined by the Director which determination shall be made on the basis of written findings of fact made by the Director.

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.

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

RUBBISH. Nonorganic waste materials. For the purpose of this article the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust.

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

UNFIT FOR HUMAN HABITATION. Dwellings as defined in § 4-74 of this article.
(Ord. passed 5-15-95; Am. Ord. passed 3-16-99)

DIVISION 2 DWELLINGS UNFIT FOR HUMAN HABITATION

§ 4-74 CONDITIONS RENDERING DWELLINGS UNFIT FOR HUMAN HABITATION.

(A) The Director shall determine that a dwelling is unfit for human habitation if he finds that any one of the following conditions exist in such dwelling:

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

(2) Supporting member or members which show 33% or more damage or deterioration, or nonsupporting, enclosing or outside walls or covering which shows 50% or more of damage or deterioration; provided that such deterioration affects the structural integrity of the building.

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

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

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

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

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

(8) Lack of adequate ventilation, light, heating, or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the jurisdiction.

(9) Lack of proper electrical, heating or plumbing facilities required by this article which constitute a health or a definite safety hazard.

(10) Lack of proper connection to a potable water supply and/or to the public sewer or other approved sewage disposal system, the lack of either one of which renders a dwelling unfit for human habitation.

(B) In addition to the conditions stated in subsection (A), a dwelling shall be found by the Director as unfit for human habitation if the Director finds that such a dwelling fails to fully comply with any seven or more of the minimum standards as stated in §§ 4-76, 4-77, 4-78, 4-79, 4-80, 4-81, 4-82, Division 3, Minimum Standards for Dwelling Fitness, of this article; provided that the Director shall

not count more than once the same type failure to comply with minimum standards in making a finding that seven or more such failures exist. Full compliance with a standard shall mean that if any part of a stated minimum standard is not complied with by a particular dwelling then that dwelling has failed to fully comply with the entire minimum standard as stated herein.

(Ord. passed 5-15-95)

§ 4-75 DWELLINGS NOT IN COMPLIANCE BUT NOT UNFIT FOR HUMAN HABITATION.

In any case where the Director finds that a dwelling fails to comply with one or more but less than seven of the minimum standards for dwelling fitness as stated herein and finds that none of the conditions stated in § 4-74 (A) exist, such dwelling shall not be found unfit for human habitation and shall not be subject to the procedures and remedies as provided in this article for dwellings unfit for human habitation.

(Ord. passed 5-15-95)

DIVISION 3 MINIMUM STANDARDS FOR DWELLING FITNESS

§ 4-76 MINIMUM STANDARDS FOR STRUCTURAL CONDITION.

(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 so as to be unsafe to use and incapable of supporting a load that normal use may cause to be placed thereon.

(B) Floors or roofs shall have adequate supporting members and strength to be safe to use and capable of supporting a load that normal use may cause to be place thereon.

(C) Foundations, foundation walls, piers or other foundation supports shall be kept in sound condition and good repair so as to be capable of supporting a load that normal use may cause to be placed thereon.

(D) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in sound condition and good repair so that they shall be safe to use and capable of supporting a load that normal use may cause to be placed thereon.

(E) Adequate facilities, as required by the *North Carolina State Building Code*, for egress in case of fire or panic shall be provided.

(F) Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting a load that normal use may cause to be placed thereon.

(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 weather tight and watertight.

(H) There shall be no chimneys or parts thereof which are defective and deteriorated so as to be unsafe and 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.
(Ord. passed 5-15-95) Penalty, see § 4-95

§ 4-77 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND HEALTH FACILITIES.

(A) *Plumbing system.*

(1) All water to each dwelling unit shall be supplied through an approved pipe distribution system connected to a potable water supply.

(2) Each dwelling unit shall be supplied with a kitchen sink, lavatory, tub or shower and a water closet, all in good working condition.

(3) Each dwelling unit shall have connected to the kitchen sink, lavatory, tub or shower an adequate supply of both cold water and hot water.

(4) All plumbing fixtures, and water and waste pipe shall be maintained in good sanitary working condition, free from defects, leaks, and obstructions.

(5) 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.

(6) All new plumbing shall be installed in accordance with the state plumbing code. Any repair or replacement of existing plumbing shall be done in accordance with the plumbing code when, in the opinion of the Director, it is reasonably practicable or otherwise vital in the interest of health and sanitation.

(B) *Heating system.* Every dwelling and dwelling unit shall be supplied with facilities providing heat in accordance with the following:

All heating systems, appliances and facilities shall be installed in accordance with the state building code and shall be maintained in a safe and good working condition.

(C) *Electrical system.*

(1) Every dwelling and dwelling unit shall be wired for 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 state 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.

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

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

(4) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the load required in accordance with the state electrical code.

(D) *Fire protection system.*

(1) Every dwelling and dwelling unit shall comply with all applicable provisions of the state fire prevention code.

(2) Every dwelling and every dwelling unit shall have supplied and installed a minimum of one approved listed smoke detector installed outside the sleeping area on each floor level of the dwelling unit.

(E) *Kitchen facilities.* Each dwelling unit shall have a kitchen supplied with a minimum of the following facilities:

(1) Food preparation surfaces impervious to water and free of defects which could trap food or liquid.

(2) Shelves, cabinets or drawers maintained in good repair for the storage of food and cooking and eating utensils.

(3) A freestanding or permanently installed cookstove. Portable electric cooking equipment shall not fulfill this requirement. Portable cooking equipment employing flame shall be prohibited.

(4) Mechanical refrigeration equipment for the storage of perishable foodstuffs.

(F) *Alternative agreements.* Nothing herein shall preclude a written agreement between an owner and occupant that the occupant will furnish a cookstove and/or mechanical refrigeration equipment as required in this subsection. It shall be an affirmative defense available to an owner charged with a violation of this subsection if such a written agreement exists.

(Ord. passed 5-15-95) Penalty, see § 4-95

§ 4-78 RESERVED.

§ 4-79 RESERVED.

§ 4-80 MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE.

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

(B) *Interior floor, walls, and ceilings.* 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 such walls and ceilings shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(C) *Windows and doors.* Every window made or manufactured to open and close, exterior door, basement or cellar door, and hatchway shall be substantially weather tight, watertight, and rodent proof; and shall be kept in sound working condition and good repair. There shall be no broken glass.

(D) *Stairs, porches, and appurtenances.* Every inside and outside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(E) *Kitchen and bathroom floors.* Every kitchen and bathroom floor surface and water closet compartment floor surface shall be constructed and maintained 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 article shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(G) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the state building code and there shall be no obstruction in any manner of any means of ingress and egress from any portion of the dwelling.

(Ord. passed 5-15-95) Penalty, see § 4-95

§ 4-81 MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) *Screens - door openings.* In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space used or intended to be used for ventilation shall have supplied and installed screens and a self-closing device; except, that sliding doors, doors with self-closing devices, and doors that open into rooms of living spaces that are mechanically ventilated or air conditioned are exempt from this provision.

(B) *Screens - window openings.* In every dwelling unit, for protection against mosquitoes, flies, and other insects, every window or other device with openings to outdoor space used or intended to be used for ventilation shall have supplied and installed screens; except, that this requirement shall not apply to dwellings containing an operable central heating system and adequate cooling equipment for mechanically ventilating the dwelling year around.

(C) *Screens - installed and maintained.* Screens on all windows and doors shall be installed in a frame or casing fitted into the window, door frame or opening. In no instance shall a screen be stapled, taped, or directly affixed to the inside or outside of a window, door frame or opening. Screens shall be maintained without open rips or tears.

(D) *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 other device as will effectively prevent their entrance.

(E) *Infestation.* There shall not be an infestation of any insects, rodents, or other pests therein or on the premises in such number as to constitute a menace to the occupants of the dwelling or the public.

(F) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall have approved container(s) and cover(s) for the storage of rubbish as required by city ordinance and such rubbish shall be removed or disposed in accordance with city ordinance.

(G) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall have an approved garbage disposal facility.

(H) *Care of premises.* No furniture, vehicle parts, junk, equipment, or other material which harbors insects, rodents, or other pests shall be placed in storage in a dwelling or dwelling unit. (Ord. passed 5-15-95) Penalty, see § 4-95

§ 4-82 MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES.

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

(A) *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.

(B) *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.

(C) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within the rooming house is contained, leased or occupied by the operator.

(D) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin, and bathtub or shower required by subsection (A) of this section shall be located within the rooming house and within a room or 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. (Ord. passed 5-15-95) Penalty, see § 4-95

DIVISION 4 RESPONSIBILITIES OF OWNERS AND OCCUPANTS

§ 4-83 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 sanitary condition the shared or public areas of the dwelling and its premises.

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a sanitary condition that part of the dwelling, dwelling unit and premises 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 sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for furnishing rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a sanitary condition and shall be responsible for the exercise of reasonable care in their use and operation.

(E) *Care of facilities, equipment and structure.* No occupant shall destroy, deface, or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit. (Ord. passed 5-15-95) Penalty, see § 4-95

DIVISION 5 ADMINISTRATION AND ENFORCEMENT

§ 4-86 DIRECTOR; DUTIES.

(A) The Director is the public officer who shall administer and enforce the provisions of this article and shall exercise the duties and powers herein prescribed. The Director shall take and subscribe to the oath of office.

(B) It shall be the duty of the Director:

(1) To investigate the dwelling conditions in the city, in order to determine which dwellings and dwelling units are alleged to be unfit for human habitation, and for the purpose of carrying out the objectives of this article 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 result of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;

(4) To perform such other duties as may be herein prescribed.
(Ord. passed 5-15-95)

§ 4-87 SAME - POWERS.

The Director is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others herein granted:

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

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

(C) To appoint and fix the duties of such officers, agents, and employees as the Director deems necessary to carry out the purposes of this article;

(D) To delegate any of his functions and powers under this article to other officers and other agents.
(Ord. passed 5-15-95)

§ 4-88 PRELIMINARY INVESTIGATION; NOTICE; HEARING.

(A) Whenever a petition is filed with the Director by a public authority or by at least five residents of the jurisdiction charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Director, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, the Director 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 dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Director (or his designated agent) 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. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Director. (Ord. passed 5-15-95)

(B) Upon the issuance of a complaint and notice of hearing pursuant to this section, the Codes 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 Rockingham County, to be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. The Codes 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 G.S. § 160A-445, as applicable. Upon compliance with the requirements of any order issued based upon such complaint and hearing the Codes Inspector shall direct the Clerk of Superior Court to cancel the notice of lis pendens. (Ord. passed 6-20-96)

§ 4-89 PROCEDURE AFTER HEARING.

(A) If, after such notice and hearing, the Director determines that the dwelling under consideration is unfit for human habitation in accordance with the standards herein set forth, the Director 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:

(1) *Unfit for human habitation, but subject to correction at a reasonable cost.* If the Director determines that said dwelling is unfit for human habitation, the order shall require the owner, within a time specified, to repair, alter, and improve such dwelling so as to render it fit for human habitation. Such order may also direct and require the owner to vacate and close the dwelling until such repairs, alterations, and improvements have been made and/or the unsafe and dangerous character of such dwelling has been corrected.

(2) *Dilapidated dwellings.* If the Director determines that said dwelling is dilapidated, the order shall require the owner, within a specified period of time, to either vacate and repair, alter or improve such dwelling so as to bring it into compliance with the standards described herein, or to vacate and close the dwelling, and to remove or demolish the dwelling. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the city and the Historic Preservation Commission determines, after 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).

(B) Whenever a determination is made pursuant to subsection (A) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice and 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 the removal or demolition by action of the Director, 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 Director 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 Director to wait 45 days before causing removal or demolition.

(Ord. passed 5-15-95)

§ 4-90 FAILURE TO COMPLY WITH ORDER; OWNER.

(A) If the owner fails to comply with an order to repair, alter or improve the dwelling, the Director may:

(1) Cause such dwelling to be repaired, altered or improved, and pending such repairs, alterations or improvements, may order such dwelling vacated and closed.

(2) 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.

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

(1) Cause such dwelling to be vacated and closed, removed or demolished.

(2) 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.

(C) The duties of the Director set forth in subsections (A) and (B) shall not be exercised until the City Council, by ordinance, shall have ordered the Director to proceed to effectuate the purpose of this article with respect to the particular property or properties which the Director 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 this article. Such ordinances shall be recorded

in the office of the Register of Deeds of Rockingham County 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 Director 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 by G.S. Chapter 160A, Article 10. If the dwelling is removed or demolished by the Director, he shall sell the materials of such dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court of Rockingham County by the Director, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(Ord. passed 5-15-95)

§ 4-91 FAILURE TO COMPLY WITH ORDER; OCCUPANT.

(A) If any occupant fails to comply with an order to vacate a dwelling, the Director may file a civil action in the name of the city 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.

(B) The Clerk of Superior Court of Rockingham County shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Director produces a certified copy of an ordinance adopted by the City Council pursuant to § 4-90, subsection (c) of this article, authorizing the Director to proceed to vacate the occupied building, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30.

(C) An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be taken in the nature of a summary ejectment proceeding pursuant to this section unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the City Council has ordered the Director to proceed to exercise his duties under § 4-90, subsections (A) and (B) of this article, to vacate and close, or to remove and demolish the dwelling.

(Ord. passed 5-15-95)

§ 4-92 SERVICE OF COMPLAINTS AND ORDERS.

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

(B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Director 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 public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Ord. passed 5-15-95; Am. Ord. passed 11-17-98)

§ 4-93 CERTIFICATE OF OCCUPANCY.

(A) It shall be unlawful for any owner or the agent of any owner to rent or offer for rent a dwelling or part thereof upon which an order to repair, alter or improve, or to vacate and close, has been issued without said owner or agent first filing application for and receiving a certificate of occupancy from the Director. The Director shall issue a certificate of occupancy when, after examination and inspection, it is found that the repairs, alterations and improvements have been made and that the dwelling conforms with the provisions of this article.

(B) The owner or his representative shall be charged a reinspection fee where the work is not in compliance at the time of the requested inspection and a subsequent reinspection is required.

(Ord. passed 5-15-95)

§ 4-94 VIOLATIONS.

In addition to the conditions, acts or failures to act that constitute violations specified in this article:

(A) 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 and remove or demolish the same, upon order of the Director duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order had been issued pursuant to this article, 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. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(C) It shall be unlawful for any person, without written consent of the Director, to remove or permit the removal of any complaint, notice or order posted in accordance with the provision of this article.

(Ord. passed 5-15-95) Penalty, see § 4-95

§ 4-95 PENALTIES FOR VIOLATIONS.

(A) Each violation of any provision of this article shall constitute a Class 3 misdemeanor, punishable by a fine of not more than \$50, as provided by G.S. § 14-4, as amended. Each calendar day during which a violation continues shall constitute a separate and distinct offense.

(B) The provisions of this article may also be enforced through any equitable or other remedy deemed appropriate by the city and permitted by law.

(Ord. passed 5-15-95)

§ 4-96 ALTERNATIVE REMEDIES.

Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, nor shall enforcement of one remedy provided herein prevent the enforcement of the other remedies provided herein.

(Ord. passed 5-15-95)

DIVISION 6 APPEALS

§ 4-97 BOARD OF ADJUSTMENT TO HEAR APPEALS.

The Board of Adjustment, hereinafter referred to as the Board, is designated as the appeals body to which appeals may be taken from any decision or order of the Director. Except where this article provides for different rules or procedures, the Board of Adjustment shall follow its rules of procedure and the Board may amend those rules to provide specifically for the housing appeals function. The Board shall perform the duties prescribed by § 4-98 and shall keep an accurate record of all its proceedings.

(Ord. passed 5-15-95)

§ 4-98 APPEALS FROM ORDER OF DIRECTOR.

(A) An appeal from any decision or order of the Director may be taken by any person aggrieved thereby or by any officer, board or commission of the city. Any appeal from the Director shall be taken within ten days from the rendering of the decision or service of the order by filing with the Director and the Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Director shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Director refusing to allow the person aggrieved thereby to do any act, the Director's decision shall remain in force until modified or reversed. When any appeal is from a decision of the Director 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 Director certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of the appellant's requirements 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 Director, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and this section.

(B) The Board shall fix a reasonable time for the hearing of 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.

(C) 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 Director, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Director.

(D) The Board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this article, to adapt the application of this article to the necessities of the case to the end that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done.

(E) 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.
(Ord. passed 5-15-95)

§ 4-99 PETITION TO SUPERIOR COURT BY OWNER.

Any person aggrieved by an order issued by the Director or a decision rendered by the Board of Adjustment may petition the Superior Court of Rockingham County for an injunction restraining the Director from carrying out the order or decision and the court may, upon such petition, issue a temporary

injunction restraining the Director pending a final disposition of the cause, as provided by G.S. § 160A-446(f). 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.

(Ord. passed 5-15-95)

ARTICLE V. DEFECTIVE AND UNSAFE BUILDINGS

Section

ARTICLE V: DEFECTIVE AND UNSAFE BUILDINGS

- 4-101 Enforcement
- 4-102 Owners and occupants of defective buildings are required to correct defects
- 4-103 Unlawful to own unsafe buildings and structures
- 4-104 Unsafe buildings shall be condemned by the Codes Inspector
- 4-105 Removal of condemnation notice unlawful
- 4-106 Notice of condemnation and hearing if owner fails to take prompt corrective action
- 4-107 Order to take corrective action - contents, issuance
- 4-108 Service of order of Codes Inspector
- 4-109 Same - appeal; finality if not appealed
- 4-110 Same - failure to comply
- 4-111 Remedies; lien for costs of demolition and removal

§ 4-101 ENFORCEMENT.

The Codes Inspector of the Planning and Inspections Department shall enforce G.S. §§ 160A-424 through 160A-436 and Article V, Chapter 4 of the City Code. (Ord. passed 7-26-94; Am. Ord. passed 8-30-94; Am. Ord. passed 6-20-95; Am. Ord. passed 3-16-99)

§ 4-102 OWNERS AND OCCUPANTS OF DEFECTIVE BUILDINGS ARE REQUIRED TO CORRECT DEFECTS.

(A) If the Codes Inspector shall find that because of a defect in a building or that because a building has not been constructed in accordance with applicable federal, state or local laws or that because of its dangerous structural condition or that because fire hazardous conditions exist in or around the building, the building is in violation of G.S. § 160A-425, the Codes Inspector shall give the owner and the occupant written notice of such defects, fire hazardous conditions or failure to construct the building in accordance with federal, state or local laws.

(B) The written notice shall direct each owner and occupant to immediately remedy such defects, fire hazardous conditions or violation of laws applicable to the construction of such building and it shall be mailed to each owner and occupant by certified or registered mail, return receipt requested, addressed to each owner and occupant or be personally served upon each owner and occupant.

(C) The written notice shall inform the owner and occupant that it is a violation of G.S. § 160A-425 and § 4-102 of the City Code for such owner or occupant to fail to immediately remedy

the aforesaid defects, fire hazardous conditions or violations of law.

(D) It shall be unlawful for the owner or occupant of a building to fail to immediately remedy a defect, fire hazardous condition or a violation of an applicable law regulating the construction of such building upon receipt of a notice issued by the Codes Inspector pursuant to the provisions of this section of the City Code.

(E) In addition to or in lieu of other remedies the city may enforce this article by an appropriate equitable remedy, as authorized by G.S. § 160A-175(d), or it may enforce this article by injunction and order of abatement as authorized by G.S. § 160A-175(e).
(Ord. passed 7-26-94; Am. Ord. passed 8-30-94) Penalty, see § 4-150 et seq.

§ 4-103 UNLAWFUL TO OWN UNSAFE BUILDINGS AND STRUCTURES.

(A) It shall be unlawful for any firm, person or corporation to own a building or a structure situated within the ordinance making jurisdiction of the city which is in such a defective or hazardous condition that it is especially dangerous to life. The City Council has determined that especially dangerous buildings and structures are detrimental to the health, safety and welfare of the citizens, that such especially dangerous buildings and structures shall be condemned, and that the owners of such especially dangerous buildings and structures shall immediately remedy the unsafe, dangerous, hazardous or unlawful conditions or demolish such building or structure.

(B) A building or structure may be found to be especially dangerous to life and held unsafe by the Codes Inspector when it appears to such Inspector that:

(1) A building or structure has been so damaged by fire or other casualty that any part of its structural system, its roof, floors, walls or porches are in danger of falling or collapsing; or

(2) A building or structure contains fire hazardous conditions such as unsafe electrical, heating or air conditioning systems, which render it more than ordinarily susceptible to fire or likely to be damaged by fire; or

(3) A building or structure appears to be especially dangerous to life because of the bad condition of walls, overloaded floors, defective construction, decay, dilapidated state of repair; or

(4) A building or structure does not have safe and adequate means of egress; or

(5) The doors, windows or other parts of the building or structure are so damaged or in such a state of disrepair that the premises cannot be made secure so as to prevent unauthorized entry by children or other persons.

(Ord. passed 7-26-94; Am. Ord. passed 8-30-94; Am. Ord. passed 3-19-02; Am. Ord. passed 4-16-02) Penalty, see § 4-150 et seq.

§ 4-104 UNSAFE BUILDINGS SHALL BE CONDEMNED BY THE CODES INSPECTOR.

If a building or structure shall appear to the Codes Inspector to be especially dangerous to life and unsafe under § 4-103(b), the Codes Inspector shall: make a written finding that the building or structure is unsafe and condemned; and affix a condemned notice of the dangerous character or conditions of the building or structure to a conspicuous place on the exterior wall of such building or structure; and mail to each owner a copy of the condemned notice stating the dangerous character or conditions of the building or structure. The condemned notice shall be mailed by certified or registered mail, return receipt requested, addressed to each of the owners.

(Ord. passed 7-26-94; Am. Ord. passed 8-30-94)

§ 4-105 REMOVAL OF CONDEMNATION NOTICE UNLAWFUL.

It shall be unlawful for any person to remove a condemned notice from a building or structure after such condemned notice has been affixed to it by the Codes Inspector pursuant to the provisions of § 4-104.

(Ord. passed 7-26-94; Am. Ord. passed 8-30-94) Penalty, see § 4-150 et seq.

§ 4-106 NOTICE OF CONDEMNATION AND HEARING IF OWNER FAILS TO TAKE PROMPT CORRECTIVE ACTION.

(A) If the owner of a building or structure that has been condemned by the Codes Inspector as unsafe pursuant to § 4-104 shall fail to take prompt corrective action, the Codes Inspector shall serve the owner with a written notice of condemnation and hearing which notice shall state that:

(1) The building or structure is in a condition that appears to constitute a fire or safety hazard or appears to be dangerous to life, health or other property and that it is held to be unsafe; and

(2) A hearing will be held before the Codes Inspector at a designated place and time, which time shall be not later than ten days after the date of such notice, and that at such hearing the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) Following the hearing, the Codes Inspector may issue such order to repair, close, vacate or demolish the building or structure as the Codes Inspector deems to be appropriate under the existing conditions.

(B) The written notice required by this section shall be served upon each owner: by mailing the same by certified or registered mail, return receipt requested, addressed to each owner to be served and by delivering to the addressee; or by personal service of the notice upon each owner as provided by Rule 4 of the N.C. Rules of Civil Procedure.

(C) If the name or whereabouts of an owner are unknown and cannot after due diligence be discovered, the notice shall be considered properly and adequately served upon such owner if a copy

thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing published in a newspaper having general circulation in the city at least once not later than one week prior to the hearing.

(Ord. passed 7-26-94; Am. Ord. passed 8-30-94)

§ 4-107 ORDER TO TAKE CORRECTIVE ACTION - CONTENTS, ISSUANCE.

If, upon a hearing held pursuant to the notice prescribed in § 4-106, the Codes Inspector shall find that the building or structure is in an unsafe condition which constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, the Codes Inspector shall issue an order in writing, directed to the owner of such building or structure, directing the owner to remedy the defective conditions by repairing, closing, vacating or demolishing the building or structure or taking other necessary steps within such period as the Codes Inspector may prescribe, which period may not be less than 60 days from the issuance of the order; provided that, where the Codes Inspector finds that there is imminent danger to life, health, or other property, the order may require that corrective action be taken in such lesser period as may be feasible.

(Ord. passed 7-26-94; Am. Ord. passed 8-30-94)

§ 4-108 SERVICE OF ORDER OF CODES INSPECTOR.

(A) The order of the Codes Inspector issued pursuant to § 4-107 shall be served upon the owner or owners either personally or by registered mail as provided by Rule 4(j) of the Rules of Civil Procedure; or

(B) If the name or whereabouts of an owner are unknown and cannot, after due diligence, be discovered, the order may be served upon any such owner in accordance with the rules and statutes for the service of process by publication as set out in G.S. § 1-75.10 (2) and Rule 4(j1) of the Rules of Civil Procedure. When service of the order is made by publication, a copy of the notice of the service of the order by publication shall also be affixed to a conspicuous place on the exterior wall of the building or structure.

(Ord. passed 7-26-94; Am. Ord. passed 8-30-94)

§ 4-109 SAME - APPEAL; FINALITY IF NOT APPEALED.

Any owner who has received an order under § 4-107 may appeal from the order to the City Council by giving notice of appeal in writing to the Codes Inspector and to the City Clerk within ten days following issuance of the order. In the absence of an appeal to City Council within the prescribed time, the order of the Codes Inspector shall be final. The City Council shall hear appeals within a reasonable time after receipt of the notice of appeal and it may modify and affirm or revoke the order.

(Ord. passed 7-26-94; Am. Ord. passed 8-30-94)

§ 4-110 SAME - FAILURE TO COMPLY.

It shall be unlawful for the owner of a building or structure to fail to comply with an order issued pursuant to § 4-107 from which no appeal has been taken or fail to comply with an order of the City Council following an appeal, unless the owner shall, within ten days following issuance of the order by the City Council, appeal from that order as by law provided.

(Ord. passed 7-26-94) Penalty, see § 4-150 et seq.

§ 4-111 REMEDIES; LIEN FOR COSTS OF DEMOLITION AND REMOVAL.

(A) The city may initiate any appropriate legal or equitable action or proceedings to prevent, restrain, correct or abate a violation of this article or prevent the occupancy of the building or structure involved.

(B) If the owner or owners fail to correct a violation of this article and the city is empowered by court order to demolish the building or structure and remove the debris from the premises, the reasonable costs of the demolition and removal shall be a lien against the real property upon which the building or structure is situated, which lien shall be filed, have the same priority, and be collected as the lien for a special assessment as provided in G.S. Chapter 160A, Article 10.

(Ord. passed 7-26-94)

ARTICLE VI: NON-RESIDENTIAL BUILDING MAINTENANCE STANDARDS

ARTICLE

Section

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DIVISION 1 GENERAL PROVISIONS**§ 4-116 TITLE.**

This article shall be known and may be cited and referred to as the “Non-Residential Building Maintenance Standards”. (Ord. passed 2-19-02) (Am. Ord. passed 12-1-08)

§ 4-117 PURPOSE.

In order to protect the health, safety and welfare of the city and its citizens, as authorized by part 6, Article 19, Chapter 160A of the North Carolina General Statutes, it is the purpose of this article to establish minimum standards of maintenance, sanitation, and safety relating to non-residential buildings or structures, as expressly authorized by North Carolina General Statute §160A-439. This article provides for the repair, closing or demolition of non-residential buildings or structures as a result of a public necessity caused by conditions that are dangerous to the public health, safety and welfare. (Ord. passed 2-19-02) (Am. Ord. passed 12-1-08)

§ 4-118 CONFLICT WITH OTHER PROVISIONS.

In any case where a provision, standard or requirement of this article is found to be in conflict with another provision of the Code of Ordinances of the City of Eden, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the people shall prevail. The International Building Code, Current Edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of construction, remodeling or repairs made or required pursuant to this article. (Ord. passed 12-1-08)

§ 4-119 DEFINITIONS.

Unless specifically defined, words used in the Non-Residential Building Maintenance Standards shall have their respective customary dictionary definitions. For the purpose of these regulations certain words, terms or phrases used herein are interpreted and defined as follows:

Words in the present tense shall include the future tense. Words used in the singular shall include the plural and words used in the plural shall include the singular. The words “shall” and “will” always indicate MANDATORY. The words “should” and “may” always indicate OPTIONAL. The word “lot” includes the words “plot” and “parcel”. The word “building” includes the word “structure”. The word “person” includes a “firm, association, organization, partnership, trust, company, corporation and individual”. The word “use” includes the terms “arranged, designed, and intended” for a use, activity or purpose. The term “City Council” shall always indicate the CITY COUNCIL OF THE CITY OF EDEN, NORTH CAROLINA. The following specific definitions shall apply in the interpretation and enforcement of this article:

(a) “*Basic structural elements*” means the parts of a building which provide the principal strength, stability, integrity, shape and safety of the building, including, but not limited to plates, studs, joists, rafters, stringers, stairs, sub-flooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other essential components.

(b) “*Building*” means any structure, place, or any other construction built for the shelter or enclosure of persons, animals, chattels or property of any kind or any part of such structure, shelter or property.

(c) “*Director*” shall mean the Director or any agent of the Director who is authorized to enforce the provisions of this article.

(d) “*Occupant*” shall mean any person who is a tenant or has actual possession of a non-residential building or structure or part thereof.

(e) “*Operator*” shall mean any person who has charge, care, or control of a non-residential building or structure, or part thereof.

(f) “*Owner*” shall mean any person who alone, or jointly, or severally with others:

(1) Shall have title in fee simple to any non-residential building or structure, with or without accompanying actual possession thereof; or

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

(g) “*Parties in interest*” means all individuals, associations, and corporations who have interests of record in a non-residential building or structure and any who are in possession thereof.

(h) “*Premises*” means any lot or parcel of land inclusive of any building or improvements located thereon.

- (i) "*Safe*" means a condition which is not likely to do harm to humans or to real or personal property.
- (j) "*Structure*" means anything constructed or placed upon a property which is supported by the ground or which is supported by any other structure, except a currently operable licensed vehicle.
- (k) "Structurally sound" means substantially free from flaw, defect, decay or deterioration to the extent that the building or structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.
- (l) "*Unsafe*" means a condition which is reasonably likely to do harm to humans or to real or personal property if not corrected or stopped.
- (m) "*Vacant manufacturing facility*" means any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.
- (n) "*Vacant industrial warehouse*" means any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use." (Ord. passed 2-19-02) (Am. Ord. passed 12-1-08)

§ 4-120 APPLICABILITY AND COMPLIANCE.

- (a) The provisions of this article shall apply to all non-residential buildings or structures which are now in existence or which may be built within the corporate limits of the city.
- (b) Every non-residential building or structure and the premises on which it is situated shall comply with the provisions of this article, whether or not such building or structure shall have been constructed, altered, or repaired before or after the enactment of this article, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities. This article establishes minimum standards for all non-residential buildings and structures and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building or structure, equipment or facilities contained therein. (Ord. passed 12-1-08)

§ 4-121 MAINTENANCE STANDARDS FOR NON-RESIDENTIAL BUILDINGS AND STRUCTURES.

All non-residential buildings and structures shall be free of all conditions that are dangerous and injurious to the public health, safety, and welfare of occupants or members of the general public. Without limitation of the foregoing requirement, the existence of any of the following conditions shall be deemed to be dangerous to the public health, safety and welfare for which a public

necessity exists for the repair, closing, or demolition of such building or structure and must be corrected in accordance with the provisions of this article:

- (1) Interior walls, vertical studs, partitions, supporting members, sills, joists, rafters, or other basic structural members that list, lean, or buckle to such an extent as to render the building unsafe, that are rotted, deteriorated or damaged or that has holes or cracks which might admit rodents.
- (2) Exterior walls that are not structurally sound, free from defects and damages, and capable of bearing imposed loads safely. Where a wall of a building has become exposed as a result of demolition of adjacent buildings, such wall must have all doors, windows, vents, or other similar openings closed with material of the type comprising the wall. The exposed wall shall be painted, stuccoed, or bricked and sufficiently weatherproofed to prevent deterioration of the wall.
- (3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used. Roofs shall be kept structurally sound and shall be maintained in such a manner so as to prevent rain or other objects from penetrating into the interior of the building.
- (4) Such damage by fire, wind, or other causes as to render the building unsafe.
- (5) Dilapidation, decay, unsanitary conditions, or disrepair, which is dangerous to the health and safety of the occupants or members of the general public.
- (6) Lack of adequate ventilation, light, heating, or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or members of the general public.
- (7) Buildings and structures including their environs that have accumulations of garbage, trash, or rubbish, which create health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary manner.
- (8) Flammable, combustible, explosive or other dangerous or hazardous materials shall be stored in a manner approved for such materials and consistent with the International Fire Code.
- (9) Buildings and structures that have loose and insufficiently anchored overhanging objects, which constitute a danger of falling on persons or property.
- (10) Buildings and structures including their environs that have insufficiently protected holes, excavations, breaks, projections, obstructions, and other such dangerous impediments on and around walks, driveways, parking lots, alleyways, and other areas which are accessible to and generally used by persons on or around the premises.
- (11) Buildings and structures that have cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic, or other dangerous objects or similar hazardous conditions. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration and repaired or replaced with like or similar material according to its original use.

(12) Buildings and structures that have objects and elements protruding from building walls or roofs, which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects.

(13) Chimneys, flues, and vent attachments thereto which are not structurally sound. Chimneys, flues, gas vents, or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight, and capable of withstanding the action of flue gases.

(14) Exterior porches, landings, balconies, stairs, or fire escapes which are not structurally sound. All exterior porches, landings, balconies, stairs, and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept sound, in good repair, and free of defects.

(15) Cornices which are not structurally sound. Rotten or weakened portions shall be repaired and/or replaced. All exposed wood shall be treated or painted.

(16) Improperly attached gutters or down-spouts that are located so as to cause a hazard to pedestrians, vehicular traffic, or adjacent property.

(17) Advertising sign structures, attached or freestanding awnings, marquees and their supporting members, and other similar attachments and structures that cause a safety hazard to the occupants or members of the general public.

(18) All exterior surfaces that may cause unsafe conditions due to a lack of maintenance. Exterior surfaces shall be painted or sealed in order to protect the underlying surface from deterioration. All exterior surfaces that have been painted shall be maintained generally free of peeling and flaking. Where fifty percent (50%) or more of the aggregate of any painted surface shall have peeling or flaking or previous paint worn away, the entire surface shall be repainted in order to prevent further deterioration.

(19) Windows containing broken or cracked glass that could be in danger of falling or shattering. All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints, or broken or loose mullions.

(20) All openings originally designed as windows, doors, loading docks, or other means of egress or ingress which have been temporarily closed by boarding or other manner in a non-secure manner so as to allow unauthorized admittance. If an opening is temporarily closed by boarding to secure the building or structure, the boarding shall be trim fit, sealed to prevent water intrusion, and painted or stained to properly conform with the other exterior portions of the building and the building or structure shall be maintained in a state that secures the building or structure from any unauthorized admittance from humans, animals, or birds.

(21) Any combination of conditions which in the judgment of the Planning and Inspections Director renders any building or structure dangerous or injurious to the health, safety, or general welfare of occupants or members of the general public.

(22) It shall be the duty and responsibility of the owner/occupant to ensure that:

- a. All parts of the premises under the control of the occupant shall be kept in a safe, clean and sanitary condition consistent with the non-residential use and the occupant shall refrain from performing any acts which would render any parts of the building or premises unsafe or unsanitary or which would obstruct any adjacent owner/occupant from performing any duty required, or from maintaining his building or premises in a safe and sanitary condition.
- b. Every owner/occupant shall be responsible for the elimination of infestation in and on the premises, subject to his control.
- c. Every owner/occupant shall maintain all supplied plumbing fixtures in a safe and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.
- d. No garbage or solid waste shall be stored or allowed by the owner/occupant to accumulate on the premises unless contained in a trash receptacle(s) which is in accordance with the Code of Ordinances of the City of Eden.
- e. Where the owner would not otherwise know of any defect of any facility, utility or equipment required to be furnished hereunder and the same is found to be defective or inoperable, the occupant affected thereby shall, upon learning of such defect, provide notice to the owner.

(23) The provisions of this Article that apply to the exterior or interior components of a structure or building or to the premises shall be complied with whether the structure or building or premises is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured by their owners to prevent the entry of unauthorized persons or the formation of nuisance conditions such as infestation. (Ord. passed 2-19-02) (Am. Ord. passed 12-1-08)

§ 4-122 DUTIES OF THE PLANNING AND INSPECTIONS DIRECTOR.

The Planning and Inspections Director hereafter, Director, is hereby designated as the public officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. It shall be the duty of the Director:

- (1) To investigate the conditions of non-residential buildings and structures in the city and to inspect non-residential buildings and structures located in the city in order to determine which non-residential buildings and structures are not being maintained so that the health and safety of its occupants or members of the general public are jeopardized and for the purpose of carrying out the objectives of this article with respect to such non-residential buildings and structures;

(2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect the repair or demolition of non-residential buildings and structures which have not been properly maintained in compliance with minimum standards established by this article.

(3) To keep a record of the results of inspections made under this article and an inventory of those non-residential buildings and structures which have not been properly maintained in compliance with the minimum standards established by this article; and

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

(Ord. passed 12-1-08)

§ 4-123 INSPECTIONS

For the purpose of making inspections, the Director is hereby authorized to enter, examine, and survey at all reasonable times, non-residential buildings and structures. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises. (Ord. passed 12-1-08)

§ 4-124 PROCEDURE FOR ENFORCEMENT

(a) Preliminary investigation. If it comes to the attention of the Director that any non-residential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this article, the Director shall undertake a preliminary investigation.

(b) Complaint and Hearing. If the preliminary investigation discloses evidence of a violation of the minimum standards established by this article the Director shall issue and cause to be served upon the owner of and parties in interest in the non-residential building or structure a complaint. The complaint shall state the charges and contain a notice that a hearing will be held before the Director or officer at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer 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 Director.

(c) Procedure after Hearing.

(1) If, after notice and hearing, the Director determines that the non-residential building or structure has been maintained in that the property meets the minimum standards established by this article, the Director shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of said determination.

(2) If, after notice and hearing, the Director determines that the non-residential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this article, the Director shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order in accordance with the provisions of subsection (c) (3) and (c) (4) of this section and subject to the limitations set forth in sections 4-125 and 4-126.

(3) If the Director determines that the cost of repair, alteration, or improvement of the building or structure would not exceed fifty percent (50%) of its then current value, then the Director shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, to either (i) repair, alter, or improve the non-residential building or structure in order to bring it into compliance with the minimum standards established by this article or (ii) vacate and close the non-residential building or structure for any use.

(4) If the Director determines that the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value, then the Director shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, to either (i) remove or demolish the non-residential building or structure or (ii) repair, alter or improve the non-residential building or structure to bring it into compliance with the minimum standards established by this article.

(d) Failure to Comply with Order and Ordinances.

(1) If the owner fails to comply with an order to either (i) repair, alter, or improve the non-residential building or structure or (ii) vacate and close the non-residential building or structure, the Director shall submit to the city council an ordinance ordering the Director to cause such non-residential building or structure to be repaired, altered, or improved in order to bring it into compliance with the minimum standards established by this article or to be vacated and closed for any use. The property shall be described in the ordinance. If city council adopts the ordinance, the Director shall cause the building or structure to be vacated and closed for any use.

(2) If the owner fails to comply with an order to either (i) remove or demolish the non-residential building or structure or (ii) repair, alter, or improve the non-residential building or structure, the Director shall submit to the city council an ordinance ordering the Director to cause such non-residential building or structure to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a non-residential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the city council. The property shall be described in the ordinance. If city council adopts the ordinance, the Director shall cause the building or structure to be removed or demolished. (Ord. passed 12-1-08)

§ 4-125 LIMITATIONS ON ORDERS AND ORDINANCES – HISTORIC LANDMARK OR HISTORIC DISTRICT.

Notwithstanding any other provision of this article, if the non-residential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the city council determines, after a public hearing, that the non-residential building or structure is of individual significance or contributes to maintaining the character of the district, and the non-residential building or structure has not been condemned as unsafe, an order issued by the Director pursuant to Section 4-124(c) and an ordinance approved by city council pursuant to section 4-124 (d) may only require that the non-residential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this article. (Ord. passed 12-1-08)

§ 4-126 LIMITATIONS ON ORDERS AND ORDINANCES – VACANT MANUFACTURING FACILITY OR VACANT INDUSTRIAL WAREHOUSE.

Notwithstanding any other provision of this article, an order issued by the Director pursuant to Section 4-124(c) and an ordinance approved by city council pursuant to section 4-124(d) may not require repairs, alterations, or improvements to be made to a vacant manufacturing facility or a vacant industrial warehouse to preserve the original use. The order and ordinance may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use. (Ord. passed 12-1-08)

§ 4-127 VACATED AND CLOSED NON-RESIDENTIAL BUILDINGS OR STRUCTURES.

(a) If the city council has adopted an ordinance or the Director has issued an order requiring the building or structure to be repaired, altered, or improved or vacated and closed and the building or structure has been vacated and closed for a period of two (2) years pursuant to the ordinance or order, then if the city council finds that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the city in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area, then city council may, after the expiration of the two (2) year period, adopt an ordinance and serve such ordinance on the owner, setting forth the following:

- (1) The ordinance shall require that the owner either (i) demolish and remove the non-residential building or structure within ninety (90) days or (ii) repair, alter, or improve the non-residential building or structure to bring it into compliance with the minimum standards established by this article within ninety (90) days.

(2) The ordinance shall require that if the owner does not either (i) demolish and remove the non-residential building or structure within ninety (90) days or (ii) repair, alter, or improve the non-residential building or structure to bring it into compliance with the minimum standards established by this article within ninety (90) days, then the Director shall demolish and remove the non-residential building or structure. (b) In the case of a vacant manufacturing facility or a vacant industrial warehouse, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five (5) years before city council may take action under this section (c) If the owner fails to comply with the requirements of the ordinance within ninety (90) days, the Director shall demolish and remove the non-residential building or structure. (Ord. passed 12-1-08)

§ 4-128 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

(a) Complaints or orders issued by the Director under this article shall be served upon persons either personally or by registered or certified mail and, in conjunction therewith, may be served by regular mail. When the manner of service is by regular mail in conjunction with registered or certified mail, and the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after mailing, service shall be deemed sufficient. The person mailing the complaint or order by regular mail shall certify that fact and the date thereof, and such certificate shall be conclusive in the absence of fraud. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(b) If the identities of any owner or the whereabouts of persons are unknown and cannot be ascertained by the Director in the exercise of reasonable diligence, and the Director makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected. (Ord. passed 12-1-08)

§ 4-129. IN REM ACTION BY THE DIRECTOR.

After failure of an owner of a non-residential building or structure to comply with an order of the Director issued pursuant to the provisions of this article and upon adoption by the city council of an ordinance authorizing and directing the owner to do so, as provided by G. S. 160A-439(f) and section 4-123(d)(d) of this article, the Director shall proceed to cause such non-residential building or structure to be repaired, altered, or improved to comply with the minimum standards established by this article, or to be vacated and closed or to be removed or demolished, as directed by the ordinance of the city council. The Director may cause to be posted on the main entrance of any non-residential building or structure which is to be vacated and closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly

allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(Ord. passed 12-1-08)

§ 4-130. COSTS, A LIEN ON PREMISES.

(a) As provided by G. S.160A-439(i), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Director pursuant to section 4-123(d)(d) or section 4-132 shall be a lien against the real property upon which such costs were incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160A of the North Carolina General Statutes. The amount of the costs shall also be a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(b) If the non-residential building or structure is removed or demolished by the Director, he/she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Director, 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 governing body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (Ord. passed 12-1-08)

§ 4-131. EJECTMENT.

If any occupant fails to comply with an order to vacate a non-residential building or structure, the Director may file a civil action in the name of the city to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the non-residential building or structure. 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 Director produces a certified copy of an ordinance adopted by the city council pursuant to G.S. 160A-493(f) and Section 4-123(d)(d) to vacate the occupied non-residential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the non-residential building or structure 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 under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an

occupant of a non-residential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least thirty (30) days before the filing of the summary ejectment proceeding, that the City Council has ordered the Director to proceed to exercise his duties under G.S. 160A-493(f) and Section 4-127 to vacate and close or remove and demolish the non-residential building or structure. (Ord. passed 12-1-08)

§ 4-132. FILING OF ORDINANCES.

An ordinance adopted by city council pursuant to this article shall be recorded in the office of the Register of Deeds of Rockingham County and shall be indexed in the name of the property owner in the grantor index, as provided by G. S. 160A-439(f) and (g). (Ord. passed 12-1-08)

§ 4-133. ALTERNATIVE REMEDIES.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the City of Eden to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by G.S. 14-4, and this article, and the enforcement of any remedy provided herein or in other ordinances or laws. (Ord. passed 12-1-08)

§ 4-134. BOARD OF ADJUSTMENT TO HEAR APPEALS.

(a) All appeals which may be taken from decisions or orders of the Director pursuant to this article shall be heard and determined by the board of adjustment. As the appeals body, the board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties.

(b) Appeals shall be subject to the following:

- (1) An appeal from any decision or order of the Director may be taken by any person aggrieved thereby. Any appeal from the Director shall be taken within ten (10) days from the rendering of the decision or service of the order, and shall be taken by filing with the Director and with the Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Director shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When the appeal is from a decision of the Director refusing to allow the person aggrieved thereby to do any act, the Director's decision shall remain in force until modified or reversed. When any appeal is from a decision of the Director 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 Director certifies to the board, after the notice of appeal is filed, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant) a suspension of the 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

for due cause shown upon not less than one (1) day's written notice to the Director, by the board, or by a court of record upon petition made pursuant to G. S. 160A-446 (f) and Section 4-123.

(2) The board shall fix a reasonable time for the hearing of all appeals, shall give 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. 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 Director, but the concurring vote of four-fifths of the members of the board shall be necessary to reverse or modify any decision or order of the Director. The board shall have power also in passing upon appeals, in any case when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this article, to adapt the application of the article to the necessities of the case to the end that the spirit of the article shall be observed, public safety and welfare secured, and substantial justice done.

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

(Ord. passed 12-1-08)

§ 4-135. TEMPORARY INJUNCTION REMEDY FOR AGGRIEVED PERSON.

Any person aggrieved by an order issued by the Director and officer or a decision rendered by the board of adjustment shall have the right within thirty (30) days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Director pending a final disposition of the cause, as provided by G. S. 160A-446(f). (Ord. passed 12-1-08)

§ 4-136. CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard or requirement of this article is found to be in conflict with any other ordinance or code of the city, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of health and safety of the citizens of the city shall prevail. (Ord. passed 12-1-08)

§ 4-137. PENALTIES FOR VIOLATION.

(a) It shall be unlawful for the owner of any non-residential building or structure to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the Director and officer duly made and served in accordance with the provisions of this article, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any non-residential building or structure,

with respect to which an order has been issued pursuant to section 4-127 (c) of this article, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration, improvement, or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(b) If any person shall violate any provision of this article he shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$100 as provided by G. S. 14-4 as amended. Each calendar day during which a violation continues shall constitute a separate and distinct offense

(c) The provisions of this article may also be enforced through any equitable or other remedy deemed appropriate by the City and permitted by law

(d) Nothing in this article shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, not shall enforcement of one remedy provided herein prevent the enforcement of the other remedies provided herein.

(Ord. passed 12-1-08)

§ 4-138 – 145. RESERVED.

ARTICLE VII: ENFORCEMENT

Section

- 4-150 Enforcement
- 4-151 General penalty for violation of Chapter 4
- 4-152 Civil penalty; nonexclusive

§ 4-150 ENFORCEMENT.

In addition to any remedies hereinbefore specifically authorized by this chapter, the provisions of this chapter may be enforced by the city by any appropriate legal or equitable remedy authorized by § 1-16 of the City Code.

(Ord. passed 2-20-97)

§ 4-151 GENERAL PENALTY FOR VIOLATION OF CHAPTER 4.

The general penalty for violations of Chapter 4 shall be as provided by § 1-16.1 which penalties shall be nonexclusive.

(Ord. passed 2-20-97)

§ 4-152 CIVIL PENALTY; NONEXCLUSIVE.

Violations of this chapter may also be punished by a civil penalty in the amount of \$100 for each violation which penalty shall be enforced as provided by § 1-16.2 of the City Code which remedy shall be nonexclusive.

(Ord. passed 2-20-97)

