

CHAPTER 11. BUILDING AND HOUSING CODE

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Article 11.1. Adoption of Codes by Reference

Sec. 11.1.1. Scope of Chapter and Codes

The provisions of this Chapter, technical codes and of the regulatory codes adopted here shall apply to the following:

- A. The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use, and occupancy of every building or structure or any appurtenances connected, attached, or used in connection with any such building or structure;
- B. The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of building sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances;
- C. The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning or refrigeration systems, fuel burning equipment, and appurtenances; and
- D. The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances.

Sec. 11.1.2. Jurisdiction of Chapter and Codes

- A. The provisions of this chapter, technical codes and of the regulatory codes adopted here shall be in effect and apply within the corporate limits of the City and beyond and surrounding the corporate limits within a line which constitutes the boundary of the City's extraterritorial jurisdiction, as described on the map maintained in the office of the City Clerk, as the same may be amended from time to time, as provided by law.
- B. The provisions of the Fire Prevention Code as adopted in Part 5, Chapter 2, Article B, "Fire Prevention," of this UDO shall apply within the corporate limits of the City. The provisions that relate to the design, construction, reconstruction, alteration, repair, demolition or removal of buildings or structures or any appurtenances connected or attached, shall apply within the corporate limits and beyond and surrounding the corporate limits within a line which constitutes the boundary of the City's extraterritorial jurisdiction, as described on the map maintained in the office of the City Clerk, as the same may be amended from time to time, as provided by law.

Sec. 11.1.3. Technical Codes

The term technical codes as used here shall mean the collective provisions of the North Carolina: Building, Accessibility, Plumbing, Electrical, Mechanical, Fire Prevention, Fuel Gas, Energy, Existing Buildings and Residential codes as adopted by the North Carolina Building Code Council, and the North Carolina Rehabilitation Code. The most recent edition, including all subsequent amendments, of the North Carolina Building Code, as adopted by the North Carolina Building Code Council is adopted by reference as fully as though set forth here to the extent such code is applicable for safe and stable design, methods of construction, minimum standards, and use of materials in building or structures erected, enlarged, altered, repaired, or otherwise constructed or reconstructed after adoption of this chapter.

- A. In addition, Appendix D-Fire Districts, of the North Carolina Building Code is hereby adopted by reference as fully as though set forth here and shall be enforced as part of this UDO.
- B. The most recent edition, including all subsequent amendments, of Volume I-C, "Making Buildings and Facilities Accessible to and Usable by Persons with Disabilities," the Accessibility Code, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth here.
- C. The most recent edition, including all subsequent amendments, of "State of North Carolina Regulations for Manufactured/Mobile Homes" as adopted by the North Carolina Commissioner of Insurance is hereby adopted by reference as fully as though set forth here.
- D. The most recent edition, including all subsequent amendments, of North Carolina Fire Prevention Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.
- E. The most recent edition, including all subsequent amendments, of "Floodproofing Regulations" as prepared and published by the office of the Chief of engineers, U.S. Army, Washington, D.C. is hereby adopted by reference as fully as though set forth here to the extent said regulations are applicable for safe and stable design, methods of construction, minimum standards, and use of materials n buildings or structures hereafter erected, enlarged, altered, repaired, or otherwise constructed or reconstructed in flood hazard areas.

- F. The most recent edition, including all subsequent amendments, of the North Carolina State Building Code, Volume IX, Existing Buildings, as adopted by the North Carolina Building Code Council is hereby adopted by reference as fully as though set forth here.
- G. The most recent edition, including all subsequent amendments, of North Carolina Energy Code, as adopted by the North Carolina Building Code Council is hereby adopted by reference as fully as though set forth here.
- H. The most recent Edition, including all subsequent amendments, of the North Carolina Residential Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.
- I. The most recent edition, including all subsequent amendments, of the North Carolina Rehabilitation Code (NCRC) is hereby adopted by reference as fully as though set forth here.
- J. The most recent edition, including all subsequent amendments, of the North Carolina Plumbing Code, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth here.
- K. The most recent edition, including all subsequent amendments, of the North Carolina Mechanical Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.
- L. The most recent edition, including all subsequent amendments, of the North Carolina Electrical Code, as adopted by the North Carolina State Building Code Council, is hereby adopted by reference as fully as though set forth here.
- M. The National Manufactured Home Construction and Safety Standards Act of 1974 U.S.C. §5401 et seq. and the regulations in 24 CFR Part 3280 adopted pursuant thereto, including all their subsequent amendments, are hereby adopted by reference as fully as though set forth here.
- N. The most recent edition, including all subsequent amendments, of the North Carolina Fuel Gas Code, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth here.

Sec. 11.1.4. Compliance With Codes

- A. All buildings or structures and connected appurtenances which are constructed, reconstructed, erected, altered, extended, enlarged, repaired, altered, occupied, used, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina Building Code, or

the North Carolina Residential Code, whichever is applicable, or both if both are applicable. Where the provisions of this UDO conflict with any of the technical codes listed above, the more restrictive provisions shall apply.

- B. Every building or structure intended for human habitation, occupancy, or use shall have plumbing, plumbing systems, or plumbing fixtures installed, constructed, altered, extended, repaired, or reconstructed in accordance with the minimum standards, requirements, and other provisions of the North Carolina Plumbing Code.
- C. All mechanical systems consisting of heating, ventilating, air conditioning or refrigeration systems, fuel-burning equipment, incinerators, and other energy-related systems, their fittings, appliances, fixtures, and appurtenances shall be installed, erected, altered, replaced, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina State Mechanical Code.
- D. All electrical wiring, installations and appurtenances shall be erected, altered, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Electrical Code.
- E. All construction, alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances made or installed to any building or structure, other than one- and two-family dwellings and townhouses, shall conform to the provisions of the North Carolina Accessibility Code.
- F. The installation of gas piping systems extending from the point of delivery to the inlet connections of equipment served, and the installation and operation of residential and commercial gas appliances and related accessories shall conform to the provisions of the North Carolina Fuel Gas Code.
- G. All manufactured housing shall be constructed, repaired, altered, installed, erected, replaced, or moved to another site in conformance with the provisions of the National Manufactured Housing Construction and Safety Standards Act and the State of North Carolina procedural and reference codes for mobile homes, modular dwelling units, and other factory building structures, and all regulations adopted pursuant thereto.
- H. All construction, alterations, repairs, replacement, equipment, and maintenance hereinafter made or installed to any building or structure, other than one- and

two-family dwelling and townhouses, shall conform to the provisions of the North Carolina Fire Prevention Code.

- I. The thermal envelope of the building and installation of energy systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances, ventilation, cooling, air conditioning and refrigeration systems, incinerators, and other energy-related systems shall conform to the provisions of the North Carolina Energy Code.
- J. All alterations, repairs, replacement, rehabilitation or change of occupancy of any existing building shall conform to applicable provisions of the North Carolina Building Code Volume IX - Existing Buildings or other applicable technical codes.

Sec. 11.1.5. Copies of Codes Filed With City Clerk

An official copy of each regulatory code, and technical codes adopted in this chapter, and official copies of all amendments, shall be kept on file in the office of the City Clerk. Such copies shall be the official copies of the codes and amendments.

Article 11.2. Development Services Department

Sec. 11.2.1. Functions and Duties

- A. It shall be the duty of the Development Services Department to enforce all the provisions of this Chapter; any regulatory and technical codes adopted in this Chapter; Part 12, Chapter 7. Removal and Disposal of Junked and Abandoned Motor Vehicles; Part 12, Chapter 2. Probationary Rental Occupancy Permit and Rental Dwelling Registration and PROP Notification; and Part 12, Chapter 6. Health, Sanitation and Public Nuisances; and to make all inspections necessary to determine the compliance with the provisions and to exercise all duties and powers imposed or given by applicable General Statutes or any other applicable act of the General Assembly of the State of North Carolina.
- B. All inspectors shall give such bond for the faithful performance of their duties as may be required by the Council.
- C. The administration and enforcement of this Chapter shall be the duty of the Development Services Department unless otherwise stated, which department is hereby authorized and directed to take such lawful action as may be necessary to enforce the provisions of this UDO.
- D. The Development Services Department, through the appointment of inspectors, shall have the full power, authority and duties prescribed by the general laws and ordinances applicable to the City to make inspections and to perform all other functions which are authorized or directed by law.
- E. Members of the Development Services Department shall have the right to enter public or private property at such reasonable times as may be necessary for the performance of their duties. Should the owner or occupant of any property refuse to permit such reasonable access, the Development Services Department shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2. No person shall obstruct, hamper or interfere with any such representative while in the process of carrying out his lawful duties.
- F. The City shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

Sec. 11.2.2. Inspection Procedure

A. Inspections

The Development Services Department shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with the Code of the City of Raleigh and the laws of the State of North Carolina.

1. When deemed necessary by the Development Services Department, it may require the permit holder to have materials and assemblies inspected at the point of manufacture or fabrication, or inspections or tests to be made by approved and recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the same are in writing and certified by a responsible officer of such organization.
2. When deemed necessary by the Development Services Department, it may require the permit holder to submit to the Development Services Department surveys by a registered land surveyor; the survey shall show the location of the structure including projections with reference to: property lines, flood hazard and flood-storage areas on the property, rights-of-way, easements on the property, such as greenway, drainage, utility, slope easements along rights-of-way, and when applicable by other Code requirements: minimum distances between buildings, minimum distances between buildings and parking spaces and drives, minimum distances between any outdoor living areas and parking or drives, and minimum distances of parking and drives from any public right-of-way line. No further inspections nor permits will be undertaken or issued by the City for that structure until the requested survey is submitted to and approved by the City.
3. All holders of permits, or their agents, shall notify the Development Services Department at each stage of construction and shall give inspectors free access to the premises for the purpose of making inspections. Approval shall be obtained from the Development Services Department before subsequent work can be continued. The inspections required shall conform to the provisions of the North Carolina Administration and Enforcement Requirements Code and technical codes.

B. Calls for Inspection

1. When work is ready for inspection, requests for inspections shall be made to the office of the Development Services Department. The Development Services Department shall give priority to those requests where delays would possibly create or prolong hazardous situations or would possibly be detrimental to the work, including but not limited to foundations, poured-in-place concrete structural elements, and electrical inspections necessary before accidentally disconnected electrical installations can be reenergized. It is the intent of this section that inspections be made as soon as practicable after requests are received, with standing priority inspections, an obligation to honor the chronological order of requests received, and the necessity for scheduling an efficient route and sequence of inspections.
2. Reinspections shall be made as soon as practicable subject to the completion of inspections for which requests had theretofore been received. No work shall be inspected or approved until it is in a proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the City, at no expense to an inspector or the City, and shall be placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the department of inspection in the form of a notice posted at the site or written notice given to the permit holder or to his agent. Failure to call for inspections or proceedings without approval of each stage of construction shall be deemed a violation of this chapter.
3. The provisions of this subsection relating to requests for inspections shall apply to the administration of all of the technical codes adopted in this chapter.

Sec. 11.2.3. Oversight Not to Legalize Violation

No oversight or dereliction of duty or issuance of a permit on the part of any inspector or other official or employee of the City shall be deemed to legalize or waive the violation of any provisions of the Code of the City of Raleigh or the laws of the State of North Carolina.

Sec. 11.2.4. Administrative Liability

No officer, agent or employee of the City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter.

Sec. 11.2.5. City Liability

This chapter shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electric wiring, devices, appliances, or equipment for damages to persons or property caused by any defect therein nor shall the City be held as assuming any such liability by reason of the inspection or the examination authorized herein or the certificate therefor issued as provided here, or by reason of the approval of any materials, devices, appliances or equipment authorized here.

Article 11.3. Examining Boards & Licensing

Sec. 11.3.1. Registration of Contractors

The registration of contractors shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code, North Carolina General Statutes, and City privilege license regulations.

Sec. 11.3.2. Electrical

A. Board Established; Personnel

There is hereby established an electrical examining board (hereinafter referred to as the board) to consist of a North Carolina registered professional engineer specializing in electrical work, 2 electrical contractors, 1 journeyman electrician, and 1 representative of the public electrical utility, all of whom must reside within the territorial jurisdiction of this UDO. The Development Services Director shall serve as ex officio secretary to the board. The members of the board shall be appointed for 2-year terms by the City Council as provided in §1-4002 of the City Code. The board shall elect from its membership a Chairman and Vice-Chairman. The members shall serve without compensation.

B. Purpose of the Board

1. It shall be the duty of the board to examine applicants for certificates as to their knowledge of the rules and regulations for the installation and operation of electrical wiring, devices, appliances and equipment as set forth in the statutes of the State of North Carolina, the ordinances of the City, and the North Carolina Electrical Code; and to determine the general qualifications and fitness of each applicant for performing the class of work covered by a journeyman's certificate.
2. The board shall perform other duties relating to electrical wiring, contracting, electrical installations, or advise on any electrical questions referred to them by the Council.

C. Meetings of the Board

The board shall meet at such intervals as may be necessary for the proper performance of its duties, but in no case less than twice each year. All meetings shall be called by the Chairman.

D. Standards and Procedures for Certifying Electricians

The board shall establish standards and procedures for the qualifications, examinations and licensing of journeyman electricians, and shall issue an appropriate license with no expiration date to each person who meets the qualifications thereof and successfully passes the examination given by the board.

E. Examinations

Examinations for journeyman certificates shall be by written form and a complete record of each shall be maintained by the secretary for a period of 2 years. Examinations are to be held the last Tuesday in each of the following months: March, June, September and December. A grade of 75 percent is required for passage of the examination.

F. Reexamination

Any applicant failing an examination may, upon payment of the regular examination fee, be reexamined after 90 days or more shall have elapsed. After 3 successive failures, an applicant shall not be reexamined for a period of 12 months following.

G. Examination Fee

Any person desiring to be licensed as a journeyman electrician shall make written application to the board and include a fee in the amount of \$35.00. Such fees shall be made payable to the City of Raleigh and are not refundable. All fees shall be collected by the secretary and promptly remitted to the Revenue Collector. The secretary shall be approved by the Revenue Collector to collect the fees for the examinations.

H. Temporary Journeyman Working Card

Between the regular periods of required examinations given by the board, any journeyman electrician, if the board secretary deems it an emergency or hardship, who first presents himself to the secretary and indicates he is employed by an electrical contractor licensed by the City, may have a temporary journeyman electrician working permit issued to him for that period before the next regular examination and upon payment of a fee of \$10.00, provided he can satisfy the secretary that he is duly qualified to perform such work. Temporary journeyman electrician working permits so issued may be canceled and recalled by the secretary if the holder thereof fails to conduct his work consistent with

the applicable laws and codes. The recall of the temporary permit shall not exclude the holder from taking an examination at the regular period as required by this UDO.

I. Revocation of Certificate

Any certificate issued by the board may, after a hearing, be suspended or revoked if the person holding such certificate repeatedly violates any provision of this chapter relating to the installation, maintenance, alteration or repair of electrical wiring devices and equipment.

J. Certificate Required to Perform Electrical Work

No person shall install, alter, repair or extend any electrical system or part thereof or connect any current-consuming device, appliance or equipment (except lamps, fuse renewals and other appliances connected by means of attachment plugging devices, maintenance on small motors and on controls for heating/air conditioning equipment), on any electrical wiring used for light, heat or power within or without any building or structure whether employed by a licensed contractor or not until he shall have first passed an examination to be conducted by the City of Raleigh electrical examining board or by the electrical examining or advisory board of any City or County which is a member of the North Carolina Committee for Journeyman Electricians and until he shall have secured a certificate of competency as a certified electrician from any such examining or advisory board; provided, however, that nothing herein shall be construed as to require the Chief electrical inspector to permit any person who may have a journeyman electrician certificate of competency issued by the advisory or examining board of any City, town or County who is a member of the North Carolina Committee for Journeyman Electricians to start or remain on any job as the qualified electrician when, in the opinion of the Chief electrical inspector, by past experience said person is not qualified under local standards to do the necessary work or when by past experience it is the opinion of the Chief electrical inspector that the person will not cooperate with the Development Services Department by not calling for inspections at the proper time, or by making or supervising installations not in conformity with applicable state and local codes.

Article 11.4. Enforcement Provisions

Sec. 11.4.1. Permit Requirements

A. Building Permit

The permit required shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code.

B. Plumbing Permit

The permit required shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code and requirements of the City of Raleigh Public Utilities Handbook.

C. Mechanical Permit

The permit required shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code.

D. Electrical Permit

The permit required shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code.

E. Fire Protection Permit

The permit required shall conform to the provisions of the North Carolina Administration and Enforcement Requirement Code.

F. Flood Permit

1. No person within floodprone areas shall change the existing condition of any land or part thereof, or place, erect, construct, enlarge, reconstruct, move or alter any building or structure or driveway, manufactured home pad, or dike, levee, or fence wall or automobile parking area, or outdoor play equipment, or pole (lighting, etc.) or storage facility (above or below ground), or part thereof without a flood permit. Excavating, filling, drilling, dredging, grading, quarrying, paving, or improving the land is a change in the existing condition of land.
2. No permit will be issued until the applicant certifies that all necessary permits required by Federal or state law have been received; provided nothing herein shall be deemed to require a permit for agricultural land

production of plants and fibers, forestland production and harvesting, and activities undertaken by the State, railroads, and utility companies allowed in N.C.G.S. 143-215.54.

3. Three sets of detailed plans and specifications shall accompany each application for a flood permit or building permit when the fill, building or structure is located within floodprone areas, or when the estimated reasonable cost of the building or structure is in excess of \$20,000.00, or for any other building or structure when plans and specifications are deemed necessary by the Development Services Department in order for it to determine whether the proposed work complies with the City Code and the laws of the State.
4. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed; and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this chapter, the appropriate regulatory and technical codes, the City Code, and the laws of the State.

G. Stub Permit

The permit shall conform to the provisions of the City of Raleigh Public Utilities Handbook.

H. Zoning Permit

A zoning permit is required for all plot plans and site plans.

I. Permit Expiration

Any permit issued pursuant to *Sec. 11.4.1.*, unless otherwise provided, shall expire 6 months after the day of issuance if the work authorized by the permit has not commenced. If after commencement, the work is discontinued for a period of 12 months, the permit shall, therefore, immediately expire. A permit shall not expire or be revoked because of the running of time while a vested right under *Sec. 10.2.19.* is outstanding. The duration of a land-disturbing activity permit shall be exempt from this section.

Sec. 11.4.2. Application for Permit

Written application shall be made for all permits required by this Chapter and shall be made on forms provided by the City of Raleigh. Such application shall be made by the owner of the building or structure affected or by his authorized agent or

representative. The owner shall authorize any work for which a building permit is required.

Sec. 11.4.3. Plans and Specifications

Where plans and specifications are required, a permittee's copy of the same marked "approved" by the Development Services Department shall be available at the work site for all inspections requested by the permittee and shall be made available for any inspection upon request by the Development Services Department.

Sec. 11.4.4. Limitations on Issuance of Permits

No building permit shall be issued for work on any new or existing dwelling unless the plans and specifications thereof contain information sufficient to indicate that the work proposed will conform to the provisions of *Article 11.6. Housing Code*.

- A. No building permit shall be issued for new construction where City water or sewer mains are not available without written approval by the Wake County Health Department of the required water supply or waste disposal systems.
- B. No permit shall be issued to any person who has failed after notice to remedy defective work, or has failed to pay a civil penalty assessed pursuant to this UDO which is due and for which no appeal is pending, or to otherwise comply with the Code of the City of Raleigh, the regulatory codes adopted therein, or the laws of the State of North Carolina.
- C. No licensed contractor shall secure a permit from the Development Services Department for any other person or persons not qualified in accordance with the provisions of the technical codes to do any work covered by the regulatory codes.
- D. No building or flood permit shall be issued during the pendency of an application for the revision of a floodprone area boundary of such property unless the proposed construction or filling is permitted under the existing floodprone area regulations and also under the revision proposed for the property.
- E. No permit authorized by this UDO shall be issued until the boundaries of any natural resource buffer yard, any open space area, any riparian surface water buffers, and any tree protection adjacent to or encompassing a work site are clearly and accurately demarked by a protective fence in the field. The location and extent of all authorized land-disturbing activities shall be similarly demarcated for so long as any land-disturbing activity continues.

- F. Reserved for future use.
- G. If the Raleigh Historic Development Commission has voted to recommend designation of an area as an Historic Overlay District, or if the Wake County Historic Preservation Commission has voted to recommend designation of a property as an historic landmark (or, to the extent that the Wake County Historic Preservation Commission does not have jurisdiction, if the Raleigh Historic Development Commission has voted to recommend designation of a property as an historic landmark), the demolition or destruction of any building, site, or structure located in the proposed district or on the property of the proposed historic landmark may be delayed by the commission with jurisdiction for a period of up to 180 days or until the City Council takes final action on the designation, whichever occurs first. Should the Council approve the designation prior to the expiration of the 180-day delay period, an application for a certificate of appropriateness for demolition must then be requested.
- H. No building permit will be issued on any parcel of a parent tract when forestry has occurred on the parent tract within the last 5 years and the 32-foot and 65-foot wide perimeter buffers set forth in *Article 9.1. Tree Conservation*, were not preserved.

Sec. 11.4.5. Reserved for Future Use

Sec. 11.4.6. Limitation on Issuance of Permits for Construction in Floodprone Areas

- A. No building permit shall be issued for any and all new construction or substantial improvement of residential structures located or to be located in floodprone areas, delineated as provided in *Article 9.3. Floodprone Area Regulations*, unless the lowest floor (including basement) and attendant mechanical, electrical, heating, ventilation, and air conditioning equipment, and any other service facility is elevated at least to the regulatory flood protection elevation. A registered professional engineer or architect shall certify on the building plans that all parts of the structure below the regulatory flood protection elevation are designed to withstand the flood depths, pressure, velocities, impact and uplift forces associated with the one-hundred-year flood at the location of the structure. All new construction and substantial improvements that fully enclose areas below the regulatory flood protection elevation which are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically

equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be certified by a registered professional engineer or architect. Prior to the use or occupancy of the structure, a registered land surveyor shall certify to the nearest $\frac{1}{10}$ of 1 foot in mean sea level datum the elevation of the lowest floor.

B. No building permit shall be issued for any and all new construction or substantial improvement of nonresidential structures or residential accessory structures located or to be located in floodprone areas, delineated as provided in *Article 9.3. Floodprone Area Regulations*, unless:

1. The provisions of subsection A. above are met and attendant utility and sanitary facilities are floodproofed. Except in the case of accessory uses to dwellings with a cost of less than \$5,000.00, prior to the use or occupancy of a structure, a registered land surveyor shall certify to the nearest $\frac{1}{10}$ of 1 foot in mean sea level datum the elevations of the lowest floor; or
2. The provisions for an essentially dry floodproof class (W2) contained in "Floodproofing Regulations," most recent edition, published by the Office of the Chief of Engineers, U.S. Army, Washington, D.C., are met. Except in the case of accessory uses to dwellings with a cost of less than \$5,000.00, prior to the use or occupancy of a structure, a registered land surveyor shall certify to the nearest $\frac{1}{10}$ of 1 foot in mean sea level datum the elevations of the lowest floor; or
3. A registered professional engineer or architect certifies on the building plans that the walls and any parts of the structure below the regulatory flood protection elevation are substantially impermeable to the passage of water and that floodproofing methods used for a specified elevation in relation to mean sea level are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100-year flood at the location of the structure and that the structure is watertight, and attendant utility and sanitary facilities are floodproofed. Except in the case of accessory uses to dwellings with a cost of less than \$5,000.00, prior to the use or occupancy of a structure, a registered land surveyor shall certify to the nearest $\frac{1}{10}$ of 1 foot in mean sea level datum the elevations of the lowest floor; or
4. For nonresidential structures only, a registered professional engineer or architect certifies on the building plans that the portions of any structure below the regulatory flood protection elevation comply with alternate wet

floodproofing methods that are acceptable to FEMA as variances to the essentially dry floodproofing measures required in subsection B.2. above provided said alternate methods comply with the standards set forth in the FEMA Technical Standards Bulletin 85-1, and that such measures are adequate to withstand the flood depths pressures, velocities, impact and uplift forces and other factors associated with the one-hundred-year flood at the location of the structures and that the attendant utility and sanitary facilities are floodproofed and that the requirements for the issuance of the variance comply with the provisions of §44 CFR 60.6 of the FEMA National Flood Insurance Program and related regulations.

- C. The provisions of subsections A. and B. above shall be inapplicable to the following:
 1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
 2. Any reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State inventory of historic places or certified by the secretary of the interior as contributing to the historical significance of a registered historic district; provided that, the alteration will not preclude the structure's continued designation as an historic structure.
- D. No permit authorized in this chapter shall be issued for new construction or substantial improvements located in floodprone areas, delineated as provided in *Article 9.3. Floodprone Area Regulations*, unless all utility, water and sanitary facilities, mechanical, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service systems are designed, located or both to prevent water from entering or accumulating within the components during conditions of flooding.
 1. All backflow preventers or devices must be installed on potable water service lines at all building entry locations to protect the system from backflow or back siphonage of floodwaters or other contaminants; such devices shall be installed within floodproofed structures or at an elevation 1 foot above the regulatory flood protection elevation;
 2. All sanitary sewer systems that have openings below the regulatory flood protection elevation shall be equipped with automatic backwater valves or other automatic backflow devices which are installed in each discharge

line passing through a building exterior wall. Devices shall be installed at locations accessible for maintenance; and

3. All sewer system vents, and nonwatertight manholes, shall be constructed to a height at least 1 foot above the regulatory flood protection elevation; provided nothing herein shall prevent the construction of watertight manholes below the regulatory flood protection elevation.

Sec. 11.4.7. Issuance of Permit

When proper application for a permit has been made, and the City has determined that the application and the proposed work comply with the provisions of the code, the appropriate regulatory and technical codes adopted herein, and the laws of the State of North Carolina, it shall issue such permit, upon receipt of the proper fees.

Sec. 11.4.8. Permit Fees

A. Working Without a Permit

1. Any person who performs work without a permit when a permit is required shall be subject to an administrative fee equal to the amount of the fee specified for the work. This administrative fee shall be paid in addition to the fee specified for the work. The administrative fee shall not be construed as a penalty, but as a charge for additional administrative expense.
2. If a person performs work without a permit twice in a 12 -month period, then for the second violation, that person shall pay both the administrative fee specified in *Sec. 11.4.8.A.1.* above and a civil penalty in the amount of \$100.00 per trade.
3. If a person performs work without a permit 3 or more times in a 12-month period, then for the third and for each subsequent violation, that person shall pay both the administrative fee specified in *Sec. 11.4.8.A.1.* above and a civil penalty in the amount of \$500.00 per trade.

B. Extra Inspection

The fees in the City of Raleigh Fee Schedule entitle the permittee to the appropriate number of inspections for the work performed. For each inspection in excess of these, there shall be an additional charge.

C. Specific Fees Enumerated

The specific fees due for any permit are listed in the City of Raleigh Fee Schedule.

D. Voiding of Permit

1. Upon a request by a property owner, any type permit may be voided; however, refunds will be made only when the permit is valid. An administrative fee in the amount equal to a minimum fee shall be deducted from the refund payment. In the event the cost of the permit to be voided was a minimum fee or less, no refund shall be made.
2. Revisions to a construction project which require permits to be voided and reissued will be charged an administrative fee per permit when the cost of the permit is other than a minimum fee. The administrative fee charged for minimum fee permits will equal the minimum fee. Single application projects that have been reviewed and are pending pick up but are abandoned prior to permit issuance will be charged an administrative fee equal to the minimum fee for each permit approved. Projects with multiple applications will be charged an administrative fee per application. This fee will equal the cost of a minimum fee per permit.

E. Computations

All permit fees derived in this schedule will be rounded to the nearest dollar.

F. Re-Review Fee

When, in the processing of a permit, it becomes necessary to review the plans for a project on more than 2 occasions for items previously identified or when the plan documents are poorly conceived and prepared, a re-review fee shall be issued for each review beyond 2.

Sec. 11.4.9. Violations

It shall be unlawful for any person to violate any provision, standard, occupancy content, or other requirement of this chapter or the regulatory and technical codes herein adopted or to refuse or fail to comply with any order of the City or of any inspector made in accordance with this chapter or the regulatory codes herein adopted. Each day shall be a subsequent violation.

Sec. 11.4.10. Civil Penalty

A. Generally

Unless otherwise stated in this UDO, any act constituting a violation of the building code as adopted herein shall subject the offender to a civil penalty in the amount of \$50.00 to be recovered by the City in a civil action in the nature of a debt or as otherwise provided herein if the offender fails to pay the penalty within 48 hours from and after receipt of a citation of a violation.

B. Additional Penalty

Unless otherwise stated in this UDO, a penalty of \$25.00, in addition to the 1 imposed for payment within 48 hours, shall apply in those cases in which the penalties prescribed in this section have not been paid within the prescribed 48-hour period and in which a civil action shall have been instituted.

C. Settlement of Civil Claim

The City is authorized to accept full payment of all monies owed in full and final settlement of the claim or claims, right or rights of action which the City may have to enforce such penalty by civil action in the nature of debt. Acceptance of any and all claims, or right of action arising out of contended violations only if the activities or non-activities which gave rise to the violations are abated or otherwise made lawful.

D. Continuing Violations

Each day's continuing violation shall be a separate offense. No civil penalty for continuing violations shall be levied against the same person for the same continuing violation at the same location more than once unless and until the City shall deliver a written notice by personal service, registered mail or certified mail — return receipt requested or as otherwise permitted by law— to the property owner or other person responsible for such violation indicating the nature of the violation and ordering corrective action. The notice shall also set forth the time period when corrective measures must be completed. The notice shall state that failure to correct the violation within the specified time period will result in the assessment of additional civil penalties and other enforcement action. If after the allotted time period has expired and after the hearing of any appeal, if any, the corrective action has not been completed, a civil penalty shall be assessed in the amount of \$100.00 per day of continuing violation unless otherwise stated in this UDO.

E. Additional Civil Penalty for Occupancy Without Certificate

Any person who occupies or allows the occupancy of a building or space without first receiving a Certificate of Occupancy or a Temporary Certificate of Occupancy shall be subject to an initial civil penalty of \$250.00 and to continuing penalties of \$100.00 for each day's violation thereafter. This penalty shall be in addition to other civil penalties or remedies available under the City Code.

Article 11.5. Unsafe Buildings

Sec. 11.5.1. Short Title

This Article is adopted and shall be known as the "Unsafe Building Code of the City of Raleigh."

Sec. 11.5.2. Defined

All buildings or structures which have any or all of the following defects shall be deemed "unsafe buildings" within the definition of and in addition to G.S. 160A-426:

- A. Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or damage public or private property.
- B. Those buildings which because of their condition are unsanitary or unsafe to the public.
- C. Those buildings which are especially liable to fire including, but not limited to, those which are unoccupied and are not adequately secured against entry by unauthorized persons.

Sec. 11.5.3. Remedy; No Action or Appeal

- A. If an appeal is not taken pursuant to G.S. 160A-430 and the owner fails to comply with the orders issued pursuant to G.S. 160A-429, the Development Services Director or his designee shall report such facts and conditions of the building or structure to the Council for action at a meeting at which time the owner and other interested parties may be heard. The Council may direct by ordinance the Development Services Department to repair or demolish the building or structure, the cost of which shall become a lien against the premises upon confirmation of the cost thereof by the City Council. The confirmation shall take place only after 10 days' written notice to the owner of the premises where the nuisance existed.
- B. The provisions herein shall be in addition to any remedy provided for in G.S. 160A-411 et seq.

Sec. 11.5.4. Nuisances Declared

All unsafe buildings within the terms of Sec. 11.5.2. are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided in this UDO and as set forth in G.S. 160A-193.

Sec. 11.5.5. Emergency Cases

In cases where it appears that there is an imminent danger to life or safety of any person unless an unsafe building as defined in Sec. 11.5.2. is immediately repaired, vacated, closed or demolished, the Development Services Director shall order its immediate repair, evacuation, closing or demolition as he may deem necessary, notwithstanding the other provisions of this Article. The Development Services Director may take the temporary measures necessary to safeguard persons from immediate danger of collapse of such building and is authorized to close temporarily sidewalks, streets, buildings and structures in places adjacent to such unsafe building and prohibit the same from being used, pending the removal of the danger. The cost of the emergency measures taken shall become a lien against the premises upon which the emergency condition existed upon confirmation of the cost thereof by the Council. The confirmation shall take place only after 10 days' written notice to the owner of the premises where the nuisance existed.

Sec. 11.5.6. Administrative Liability

No officer, agent or employee of the City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Article.

Sec. 11.5.7. Violations; Unlawful to Disregard Notices or Orders

It shall be unlawful for an occupant to fail to vacate an unsafe building or structure after being given an order pursuant to G.S. 160A-429.

Sec. 11.5.8. Enforcement

- A. If any person shall violate any provision of this chapter, he shall be guilty of a misdemeanor and shall be punished as allowed by law.
- B. Any owner of a building or structure who fails to comply with an order to repair, vacate and close or demolish any building or structure declared unsafe as determined pursuant to the provisions contained in sections in this Article, or by state law, or who permits the reoccupancy of an unsafe building once vacated shall be subject to a civil penalty of \$500.00 for the first day following the expiration of an order to repair, vacate and close or demolish any building or structure or following a determination that an unsafe building has been reoccupied in violation of this UDO. In each instance, a penalty of \$100.00 per day shall be imposed for each subsequent day that the unsafe building remains

in violation of an order issued pursuant to Sec. 11.5.4. and Sec. 11.5.5. If a person fails to pay the civil penalty within 30 days after being notified of the amount due, the City may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

Sec. 11.5.9. Lis Pendens

- A. At any time after an inspector issues a complaint containing a notice of hearing or issues an order pursuant thereto, any inspector may file a notice of *lis pendens* with the clerk of Superior Court of the county where the property is located. A copy of the complaint containing a notice of hearing or a copy of the order shall be attached to the *lis pendens*. When the *lis pendens* is filed with the Clerk, it shall also be served on the owners and parties in interest in the building or dwelling, including any lienholders and tenants who may be determined by the exercise of reasonable diligence.
- B. Any inspector may cancel the *lis pendens* upon a determination by that inspector that the property is no longer unsafe and that the owner has fully complied with the inspector's order. Cancellation must be made in a writing signed by the inspector and provided to the Clerk of Court.

Sec. 11.5.10. Administrative Fee

In addition to any other charge, any owner of a building located within the City and its extraterritorial jurisdiction shall be subject to an administrative fee of \$325.00 upon an inspection hearing disclosing the building to be unsafe due to any defects defined within Sec. 11.5.2. or G.S. 160A-426. In addition to any other charge, any owner of a building located within the City and its extraterritorial jurisdiction shall be subject to an administrative fee of \$650.00 upon any additional inspection hearing disclosing the building to be unsafe due to any defects defined within Sec. 11.5.2. or G.S. 160A-426 within the same 12-month period. The property owner may also be assessed any costs incurred in obtaining service including legal publication of notice of complaint charges, hearing notice and findings of fact and orders related to the building.

Article 11.6. Housing Code

Sec. 11.6.1. Preamble; Definitions

- A. Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the City of Raleigh and its extraterritorial jurisdiction dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the City and its extraterritorial jurisdiction.
- B. This Article establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this Article.
- C. All building construction and residential properties shall comply with the North Carolina Building Code, North Carolina Residential Code and all applicable technical codes.

Sec. 11.6.2. Conflict With Other Provisions

In any case where a provision of this Article is found to be in conflict with a provision of any zoning, building, fire, safety or health provision of this UDO or ordinances or codes of the City, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

Sec. 11.6.3. Minimum Standards for Basic Equipment and Facilities

No person shall occupy or let to another for occupancy, any dwelling unit for the purpose of human habitation which does not comply with the following minimum requirements:

A. Basic Equipment and Facilities

1. Kitchen Sink

Every dwelling unit shall contain a kitchen sink, free from corrosion and leaks, in good working condition and properly connected to a water and

sewer system approved by the City. The kitchen sink shall have hot and cold running water.

2. Toilet and Sink

Every dwelling unit shall contain a room separate from the habitable rooms which affords privacy with a door and operable lockable door hardware, and which is equipped with a flush toilet and a sink in good working condition and properly connected to a water and sewer system approved by the City. The sink shall have hot and cold running water, and be free from corrosion and leaks. Access to such room shall be through a weathertight area.

3. Bathtub and Showers

Every dwelling unit shall contain a room separate from the habitable rooms which affords privacy with a door and operable lockable door hardware, and which is equipped with a bathtub or shower in good working condition and properly connected to a water and sewer system approved by the City. The bathtub or shower shall have hot and cold running water, and be free from corrosion and leaks.

4. Hot Water Facilities

Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of hot water to be drawn at every required sink, bathtub, shower and laundry facility at a temperature between 110 and 140 degrees.

5. Heating

Every dwelling unit shall have heating facilities installed and maintained according to Sec. 11.6.3.C.15.

B. Light and Ventilation

1. Every existing habitable room shall be provided with a window with a minimum of 6 square feet or a gravity or mechanical ventilation system capable of providing one air change every 30 minutes approved by the City.
2. Basements and cellars with habitable space and every sleeping room shall have at least 1 operable emergency escape and rescue window or an exterior door opening for escape and rescue.
3. Every habitable room shall have at least 1 window or skylight which can easily be opened directly to the outside, or such other device as will

adequately ventilate the room. The total of operable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size, as required in Sec. 11.6.3.B.1. above, except where there is supplied some other device affording adequate ventilation and approved by the City.

4. Every habitable room of every building shall contain at least 2 separate floor and/or wall-type electric convenience outlets and every toilet compartment, bathroom, laundry room, furnace room, entrance, exitway, and public hall shall contain at least 1 supplied ceiling or wall-type electric light fixture. Every such outlet and fixture shall be connected to the source of electric power in a safe manner. The electrical service serving a dwelling unit shall be of sufficient capacity to carry the demand load as determined by the State adopted Electrical Code.
5. Every public hall and stairway in every multiple dwelling serving 5 or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than 4 dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.
6. Bathrooms, toilet compartments and similar rooms shall be provided with aggregate glazing area in windows of not less than 3 square feet, one-half of which must be operable, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet shall discharge to the outdoors and shall not be re-circulated.

C. Sanitary Maintenance, Safety and Structural Standards

No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

1. Screening for Insects and Rodents

- a. For protection against mosquitoes, flies and other insects, every door opening directly from a dwelling or dwelling unit to outdoor space shall have a screened door with a self-closing device; and every window or other device with openings to outdoor space used, designed or intended to be used for ventilation shall be likewise provided with screens. Screens

shall be not less than 16 mesh per inch. Dwelling units containing central air conditioning equipment or window-type air conditioning units which will satisfactorily cool and ventilate the dwelling unit are not required to have screens in door and window openings.

- b. Every basement or cellar window used or intended to be used for ventilation and every other opening which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.
- c. Screens shall be provided for all enclosed crawl space vents.
- d. Screens shall fit openings snugly and shall not be torn or otherwise defective.
- e. Screens shall not be permanently fixed to the window frame or sash by nail, staples, screws or any other permanently fixed means. Screens shall be attached so as to be easily removed.

2. Foundations

- a. A foundation wall shall support the building at all points and shall be free of holes and cracks which would admit rodents, water or dampness to the interior of the building or which lessen the capability of the foundation to support the building.
- b. Crawl space shall be graded so as to prevent any standing water.
- c. Footings shall be sound and have adequate bearing capacity.
- d. Piers shall be sound with no loose mortar or masonry.
- e. No pier in which the plumb line from top center falls outside the middle $\frac{1}{3}$ of the pier base shall be allowed.
- f. No stiff knees shall be used in place of footing and pier requirements in paragraphs c. and d. above.

3. Floors

- a. There shall be no decayed, insect-damaged, termite-damaged, fire-damaged, broken, overloaded or sagging girders, floor joists or sills that adversely affect the structural integrity of the building framing system.
- b. Girders, floor joists and sills shall be properly supported and reasonably level.

- c. Girders, floor joists and sills shall not be decayed, overloaded, sagging or broken so as to adversely affect the structural integrity of the floor framing system.
- d. Flooring shall be weathertight without holes or cracks which permit excessive air to penetrate rooms.
- e. Flooring shall be reasonably smooth. There shall be no decayed or fire damaged material so as to adversely affect the structural integrity of the flooring system.
- f. There shall be no loose flooring.
- g. Floors shall be reasonably level.
- h. Every toilet compartment, bathroom, kitchen and other similar floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition. The floor surfaces shall be covered with a non-absorbent material and be made watertight.

4. Walls, Exterior

- a. There shall be no wall in which the plumb line from the top to the floor exceeds 3 inches out of plumb.
- b. Walls shall be structurally sound.
- c. There shall be no broken, cracked or fire damaged structural members.
- d. There shall be no decayed, insect-damaged or termite-damaged studs.
- e. All siding shall be weathertight, with no holes or excessive cracks or decayed boards which permit excessive air or moisture to penetrate rooms.
- f. There shall be no loose siding.
- g. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior surfaces not inherently resistant to deterioration shall be treated with a protective coating or covering and maintained in good repair to prevent deterioration. Exterior wood surfaces other than decay-resistant woods shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors and

skylights shall be maintained weather resistant and watertight. All metal surfaces subject to rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from any exterior surfaces, except for surfaces designed to be stabilized by oxidation.

- h. Approved corrosion-resistant flashing shall be provided in the exterior wall envelope in such a manner to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. Aluminum flashing may not be used in contact with cementitious material or treated woods.
- i. Only standard building materials deemed acceptable by general building standards as set forth by this UDO, the North Carolina Building Code, the North Carolina Residential Code, and as confirmed by the Inspector, shall be used to repair exterior walls.

5. Walls, Interior

- a. The interior finish shall be free of holes and cracks which permit excessive air or moisture to penetrate rooms.
- b. No loose plaster, loose boards or other loose wall materials shall be allowed.
- c. Only standard building materials deemed acceptable by general building standards as set forth by this UDO, the North Carolina Building Code, the North Carolina Residential Code, and as confirmed by the Inspector, shall be used on a wall to prevent air or moisture intrusion.
- d. There shall be no decayed, insect-damaged or termite-damaged studs.
- e. There shall be no broken or cracked studs or other broken or cracked structural members allowed.
- f. Only standard building materials deemed acceptable by general building standards as set forth by this UDO, the North Carolina Building Code, the North Carolina Residential Code, and as confirmed by the Inspector, shall be used to repair interior walls.

6. Ceilings

- a. There shall be no joists which are decayed, broken, sagging, or improperly supported.

- b. There shall be no holes or excessive cracks which permit air or moisture to penetrate rooms.
- c. There shall be no loose plaster, boards, gypsum wall board, or other ceiling finish.
- d. Ceiling joists shall be structurally sound.
- e. Only standard building materials deemed acceptable by general building standards as set forth by this UDO, the North Carolina Building Code, the North Carolina Residential Code, and as confirmed by the Inspector, shall be used on a ceiling to prevent air or moisture intrusion.

7. Roofs

- a. There shall be no rafters which are decayed, broken, or improperly supported.
- b. No rafters shall be damaged by fire.
- c. Sheathing shall not be loose and shall be structurally sound.
- d. No loose roof covering shall be allowed, nor shall there be any holes or leaks which could cause damage to the structure.
- e. There shall be proper flashing at walls and roof penetrations. The roof and flashing shall be sound, tight, and have no defects that admit rain.
- f. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.
- g. Roof water shall not be discharged in a manner that creates a public nuisance.
- h. No live or dead vegetation, tree branches or other debris that affects roof drainage or future roof degradation shall be allowed to remain on the roof structure.
- i. New roof coverings shall not be installed without first removing existing roof covering where any of the following conditions exist:
 - i. The existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing;
 - ii. The existing roof covering is wood shake, slate, clay tile, cement tile or asbestos-cement tile; or
 - iii. The existing roof has 2 or more applications of any type of roof covering.

8. Exterior and Interior Windows and Doors

- a. All exterior windows and doors shall be reasonably weathertight, shall have no broken glass, and shall have adequate operable locks and hardware. Clasp locks and hasp locks are not acceptable locks and hardware.
- b. All interior doors and hardware shall be in good repair.
- c. Every window, skylight, door and frame shall be kept in sound condition and good repair. All glazing materials shall be maintained free from cracks and holes. Every window, other than a fixed window, shall be easily operable and capable of being held in position by window hardware.
- d. Plastics (plexiglass) shall not be used as glazing unless in compliance with ASTM requirements ASTM 84, ASTM D 2843 and combustibility classifications CC1 and CC2.
- e. Covers, screens or similar devices are permitted to be placed over emergency escape and rescue openings, bulkhead enclosures, or window wells that serve such openings, provided such devices are capable of being released or removed from the inside without the use of a key, tool or force greater than that required for normal operation of the opening.
- f. Bars, grills or similar devices are not permitted to be placed over emergency escape and rescue openings, bulkhead enclosures or window wells that serve such openings.

9. Means of Egress

- a. There shall be a minimum of 1 exit from each dwelling unit for one or two family dwellings or townhomes, in accordance with the North Carolina State Building Code.
- b. The exit provisions shall conform to the requirements established for multi-family dwellings, excluding one or two family dwellings or

townhomes, in accordance with the North Carolina Residential Building Code.

- c. Every exterior stairway, deck, porch and balcony, exits, and all attached appurtenances, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- d. Platforms, steps, and/or handrails provided to serve exits shall be structurally sound, in good repair, with proper anchorage and capable of supporting any imposed loads.
- e. There shall be a safe, continuous and unobstructed exitway from the interior of the building to the exterior at street or grade level.

10. Porches and Decks

- a. Foundation, floor, ceiling and roof shall be equal to standards set forth above, except sills, girders and joists need not be level if providing drainage of floors; floors need not be weathertight; ceiling height shall be not less than 7 feet.
- b. Roof post and attached railings if provided, shall be structurally sound.
- c. Every porch, terrace or entrance platform located at least 30 inches above the adjacent finished grade shall be equipped with guardrails not less than 36 inches high. Required guardrails on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures that do not allow passage of an object 6 inches or more in diameter. Horizontal spacing between the vertical members in required guardrails shall be a maximum of 4 inches at the nearest point between members. Triangular openings formed by the riser, tread and bottom rail of a guard at the open side of a stairway may be of such a size that a 6-inch sphere cannot pass through.

11. Stairs and Steps

- a. Stairs and steps shall not be decayed and shall be in good repair. Exterior repairs shall be made with materials for exterior use application, no interior building materials shall be allowed for exterior stairs, steps, decks, rails, treads or similar exterior appurtenances.
- b. Every rail shall be firmly fastened and maintained in good condition.

- c. No flight of stairs more than 1 inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.
- d. Supports shall not sag and shall be structurally sound.
- e. Every stair tread shall be sound and securely fastened.
- f. Open sides of stairs with a total rise of more than 30 inches above the floor or grade below shall have guardrails not less than 34 inches in height measured vertically from the nosing of the treads. Required guards on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures that do not allow passage of an object 6 inches or more in diameter. Horizontal spacing between the vertical members in required guardrails shall be a maximum of 4 inches at the nearest point between members. Triangular openings formed by the riser, tread and bottom rail of a guard at the open side of a stairway may be of such a size that a 6-inch sphere cannot pass through.

12. Electrical

- a. No outlets, receptacles, luminaries, smoke detectors, carbon monoxide detectors, switches or other fixtures shall be broken or hanging loose.
- b. All outlets, receptacles, luminaries, smoke detectors, carbon monoxide detectors, switches and other fixtures shall be safely operable.
- c. Receptacle replacements for existing dwellings shall comply with the State adopted National Electrical Code.
- d. Every habitable room of every building shall contain not less than 2 separate floor or wall-type electric convenience outlets and every toilet compartment, bathroom, laundry room, furnace room, entrance, exitway, and public hall shall contain at least 1 supplied ceiling or wall-type electric light fixture as required by *Sec. 11.6.3.B.4*. Every such outlet and fixture shall be connected to the source of electric power in a safe manner.
- e. There shall be installed in every habitable room, bathroom, laundry room, hallway, stairway and furnace room at least 1 supplied ceiling or wall type electrical light fixture provided, further, that the ceiling light fixture may be omitted in living room and bedrooms, provided

3 electrical convenience receptacles are installed, one of which is controlled from a wall switch.

- f. All new wiring shall comply with manufacturer's installation requirements and the NEC requirements as approved by State of North Carolina.
- g. Luminaries (light fixtures) shall be of such construction or installed in such a way that the conductors in outlet boxes shall not be subjected to temperatures greater than that for which the conductors are rated.
- h. All wiring shall be safe. No circuits shall be overloaded. All circuits shall be provided with proper over-current protection; no over-current protection shall be bridged; there shall be no bare wires, open joints or open spliced cables; there shall be no open spaces in the panel box.
- i. The electric service, including the wiring serving every dwelling, shall be of sufficient capacity to carry the demand load as determined by the current adopted electrical code.
- j. All wiring shall be properly protected from physical damage.
- k. All metal components of the electrical system shall be properly bonded and grounded.
- l. Main or distribution panel boxes shall not be double lugged, shall have no open unused openings, shall utilize proper connectors, be properly labeled, utilize only approved over-current devices and be properly grounded and bonded.
- m. Where it is found that the electrical system in a structure constitutes a hazard to the occupants of the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for other similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.
- n. All appliances shall be properly installed and function for the purpose intended
- o. A 20-amp branch circuit and receptacle shall be provided as a laundry circuit.
- p. Extension cords shall not be used to replace permanent wiring methods.

- q. Every occupied building shall be provided with an electrical system in compliance with the requirements of this Section.

13. Plumbing

- a. All plumbing fixtures and waste pipes shall be properly installed and maintained in good sanitary working order, and be kept free from obstructions, leaks and defects, and be capable of performing the function for which such plumbing fixtures are designed.
- b. Every sink, lavatory, bathtub and shower, water closet or plumbing fixture shall be properly connected to either a public water system or to an approved private water system.
- c. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture.
- d. Fixtures, including water closets, shall not be cracked, broken, leaking or loose from the floor or wall, as applicable.
- e. Tub and shower stall floors and walls shall be watertight.
- f. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from leaks and defects.
- g. There shall be adequate facilities for furnishing hot and cold water to each tub or shower, lavatory, and kitchen sink. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature between 110 and 140 degrees Fahrenheit. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters. New installations shall also require a means of disconnection in accordance with the Electrical Code.
- h. There shall be installed a toilet, tub or shower, lavatory and kitchen sink for each dwelling unit.
- i. There shall be separate toilet facilities for each dwelling except as provided in *Sec. 11.6.3.D.1.* for room units or bed and breakfast inns.
- j. Toilet and bathing facilities shall be protected from the weather.

- k. All water piping shall be protected from freezing by proper installation in protected space.
- l. Sewer and water lines shall be properly supported, with no broken or leaking lines. Every plumbing stack, vent, waste and sewer line shall function properly and be kept from obstructions, leaks and defects.
- m. Every supplied facility required under this UDO shall be so constructed, installed or connected that it will function safely and effectively and shall be maintained in a satisfactory working condition. It shall be unlawful for any person to willfully or maliciously deposit any material in any toilet, bathtub or other plumbing fixture which may result in the obstruction of any sanitary sewer. Any liability on the part of the occupant shall not relieve the owner of the responsibility of cleaning any resulting blockage.

14. Heating

- a. All occupied dwelling units shall have heating facilities, central or as otherwise deemed acceptable by the North Carolina Building Code.
- b. Heating facilities shall be properly installed and maintained in good and safe working condition and capable of safely and adequately heating all habitable rooms, bathrooms and toilet compartments.
- c. Every occupied dwelling unit shall have a heating appliance with a minimum capacity of 12,000 BTU output so as to heat all habitable rooms to a minimum temperature of 65 degrees Fahrenheit, measured 3 feet above the floor with an outside temperature of 25 degrees Fahrenheit. As an alternative, a professional engineer or a North Carolina licensed HVAC contractor may provide calculations that the room designated can be heated accordingly by a heating unit with lesser capacity.
- d. Every bathroom or toilet compartment which does not open directly from a room having a source of heat shall be provided with a heating source deemed acceptable by this UDO, the North Carolina Building Code, the North Carolina Residential Code and as confirmed by the Inspector.
- e. All electric, gas and oil burning equipment installed on the premises shall be of a type approved by Underwriters' Laboratories, Inc., or by American Gas Association and shall be installed in accordance with the provisions of the manufacturers' recommendations or listing.

- f. Chimneys shall have no loose bricks or mortar; flues shall have no holes.
- g. Gas appliances shall not be located in, or obtain combustion air from, sleeping rooms, bathrooms, toilet rooms or storage closets. This shall not apply to:
 - i. Direct vent appliances that obtain all combustion air directly from the outdoors;
 - ii. Vented room heaters, wall furnaces, vented decorative appliances and decorative appliances for installation in vented solid fuel-burning fireplaces; provided that the room is not a confined space and the building is not of unusually tight construction;
 - iii. A single wall-mounted unvented room heater equipped with an oxygen depletion safety shutoff system and installed in a bathroom, provided that the input rating does not exceed 6,000 BTU per hour and the bathroom is not a confined space; and
 - iv. Appliances installed in a dedicated enclosure in which all combustion air is taken directly from the outdoors. Access to such enclosures shall be through a solid door that is weather-stripped and equipped with an approved self-closing device.
- h. There shall be no hanging masonry chimneys.
 - i. Thimbles shall be grouted in tight.
 - j. Thimbles shall be installed high enough for the stovepipe to rise $\frac{1}{4}$ inch per foot minimum.
- k. Fireplaces shall be used only for supplemental heat and not for basic heating.
 - l. Hearth extension shall be at least 16 inches deep and 8 inches beyond each side of the fireplace opening.
- m. Combustible materials shall not be within 6 inches of either side of the fireplace opening or within 12 inches above the fireplace opening.
- n. If the fireplace opening is closed, the closure shall be of noncombustible material and airtight.
- o. Any stove shall be within 6 feet of the thimble serving it.
- p. No stovepipe shall be routed through combustible walls unless specifically approved for installation in combustible walls.

- q. No combustible materials shall be within 12 inches of the stovepipe.
- r. All mechanical appliances, fireplaces, solid-fuel burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.
- s. A supply of air for complete combustion of fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.
- t. Dryer exhaust ducts for clothes dryers shall terminate on the outside of the building and shall be equipped with a back-draft damper. Screens shall not be installed at the duct termination. Ducts shall not be connected or installed with sheet metal screws or other fasteners that will obstruct the exhaust flow. Clothes dryer ducts shall not be connected to a vent connector, vent or chimney.
- u. Portable heaters are not acceptable as a permanent source of heat but they may be used as a supplementary unit in one- and two-family dwelling units. No owner shall be held to be in violation of this UDO when an occupant is using a portable heater as a source of heat as long as the owner has complied with paragraph c. above.

15. Smoke and Carbon Monoxide Detectors

- a. Every owner of a rental residential dwelling unit shall comply with G.S. 42-42 for smoke detectors and carbon monoxide detectors and shall install a smoke detector mounted on the ceiling or wall on every level, at a point centrally located in the corridor or area giving access to each group of rooms used for sleeping purposes and in common stairwells in each dwelling unit as provided in §5-2041 of the Raleigh City Code.
- b. Every owner of an existing residential dwelling shall comply with North Carolina Residential Code Section 313. In existing dwellings, where interior alterations, repairs, fuel-fired appliance replacements, or additions requiring a permit occurs, or where one or more sleeping rooms are added or created, carbon monoxide alarms shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms as directed by the alarm manufacturer.
- c. The owner of every residential dwelling unit where a smoke detector is installed pursuant to §5-2041 shall maintain and insure that the smoke

detector is kept in good working order at all times. If a battery-operated smoke detector is used, the batteries shall be replaced at least once per year.

16. Kitchens and Bathrooms

- a. Kitchen and bathroom counter tops and cabinets shall be constructed and maintained so as to permit the counter top and cabinets to be easily kept clean and in a sanitary condition.
- b. Counter tops and cabinets shall be made or covered by a non-absorbent material and shall be free from rot, water damaged wood, and broken or decayed materials which would affect the integrity of the counter top or cabinet.
- c. All cabinet doors and drawers shall be operable and have functional hardware to allowed proper operation.
- d. Kitchen and bathroom sinks shall be properly secured and sealed to prevent leakage.

17. Temporary Interruption of Service

No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this chapter to be removed, shut off or disconnected from any occupied dwelling, except for such temporary interruption as may be necessary while actual repair or alterations are in process or during temporary emergencies when discontinuances of services are approved by the City.

D. Space, Use and Location

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

1. Required Space in Dwelling Units

- a. Every dwelling unit shall comply with the following Schedule of Required Minimum Habitable Room Floor Area.

Schedule of Required Minimum Habitable Room Floor Area

Number of Persons	Required Minimum Floor Area in Square Feet
1	150
2	260
3	370
4	480
5	590
6	700
7	780
8	850
9	950
10	1,050
11	1,560
12	1,670
13	1,780
14	1,890
15	2,000
16 and greater	an additional 150 for each additional occupant

- b. A living or principal room is required and shall contain not less than 120 square feet, and any bedroom shall contain not less than 70 square feet each. The above floor areas shall be calculated only for habitable rooms.
- c. Each habitable room shall have at least 70 square feet, with the exception of kitchens.

2. Height of Ceiling

At least ½ of the floor area of every habitable room shall have a ceiling height of at least 7 feet; and the floor area of that part of any room where

the ceiling height is less than 5 feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

3. Access to Bath and Bedrooms

No dwelling or dwelling unit constructed after adoption of this chapter, containing 2 or more sleeping rooms, shall have such room arrangements that access to bathroom or toilet compartment intended for use by occupant of more than 1 sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or toilet compartment.

4. Cellars

No cellar space shall be used as a habitable room or dwelling unit, except in compliance with the requirements of *Sec. 11.6.3.D.2.* above and all of the requirements for basements set forth in *Sec. 11.6.3.D.5.* below.

5. Basement

No basement space shall be used as a habitable room or dwelling unit, unless:

- a. The floor and walls are impervious to leakage of underground and surface runoff water.
- b. The total window area in each room is equivalent to the minimum window area size as identified in *Sec. 11.6.3.B.3.*
- c. Such required minimum window area is located entirely above the grade of the ground adjoining such window area.
- d. The total of operable window area in such habitable room is equivalent to at least the minimum required under *Sec. 11.6.3.B.3.*
- e. Basements with habitable space and every sleeping room shall have at least 1 operable emergency escape and rescue window or exterior door opening for emergency escape and rescue.

6. Access Limitation of Dwelling Units to Commercial Uses

No habitable rooms, bathroom or toilet compartment which is accessory to a dwelling unit shall open directly into or shall be used in conjunction with any room used for commercial or public purposes.

7. Rubbish Storage Facilities

Every dwelling, multi-family dwelling and dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Chapter 2, "Solid Waste Collection" of Part 7 of the Raleigh City Code, and the owner, operator or agent in control of such dwelling or multi-family dwelling shall be responsible for the removal of such rubbish.

8. Garbage Storage or Disposal Facilities

Every dwelling or multi-family dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility as required by Chapter 2, "Solid Waste Collection," Part 7 of the Raleigh City Code.

E. Minimum Standards for Rooming Houses or Bed and Breakfast Inns

Every person who operates a rooming house or bed and breakfast inn or who occupies or lets to another for occupancy any rooming unit in any rooming house or bed and breakfast inn shall comply with all the provisions set forth within this Article, except as otherwise provided in this section.

1. At least 1 toilet, 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 3 rooms within a rooming house or bed and breakfast inn wherever the facilities are shared. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
2. Every toilet, lavatory basin and bathtub or shower required by paragraph 1. shall be located within the rooming house or bed and breakfast inn and within a room or rooms which afford privacy, with a door and lockable hardware, and are separate from the habitable rooms.
3. Access for every toilet, lavatory basin and bathtub or shower required by paragraph 1. shall be not more than 1 story removed from any of the persons sharing such facilities and from a common hall and without going outside the rooming house or bed and breakfast inn. Access to every toilet, lavatory basin and bathtub or shower shall comply with *Sec. 11.6.3.D.3.*
4. Every room occupied for sleeping purposes by 1 occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than 1 person shall contain at least 50 square feet of floor

area for each occupant thereof. Access to every sleeping room shall comply with *Sec. 11.6.3.D.3.*

5. The operator of every rooming house or bed and breakfast inn 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 or bed and breakfast inn; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house or bed and breakfast inn is contained is leased or occupied by the operator.
6. Every rooming house or bed and breakfast inn owner shall provide a resident management. The resident manager's name and room number shall be placed on the primary entrance of the dwelling. The resident manager shall be required to maintain an up-to-date floor plan of the rooming house or bed and breakfast inn. This floor plan shall be posted in a conspicuous location.
7. Every rooming house or bed and breakfast inn shall have a public telephone located within a central area of the dwelling.
8. Every rooming house shall have a kitchen facility in compliance with *Sec. 11.6.3.C.17.*
9. There shall be no living or principal room required.
10. Every rooming house operator shall conform to the license requirements set forth in §12-2156 of the Raleigh City Code.

Sec. 11.6.4. Responsibilities of Persons

Occupants of dwellings, multi-family dwellings, and dwelling units, and owners or operators of rooming houses shall be responsible for maintenance thereof as provided in this section.

A. Responsibilities of Occupants

1. Disposal of Rubbish

Every occupant of a dwelling unit shall dispose of all rubbish in a clean and sanitary manner as required by this UDO and Chapter 2, Part 7 of the Raleigh City Code.

2. Disposal of Garbage

Every occupant of a dwelling unit shall dispose of garbage in a clean and sanitary manner by placing it in the garbage disposal facilities as required by Sec. 11.6.3.D. and Chapter 2, Part 7 of the Raleigh City Code.

3. Use and Operation of Supplied Plumbing Fixtures

Every occupant of a dwelling unit shall keep the supplied plumbing fixtures therein clean and sanitary and shall be responsible for the exercise of reasonable care in their proper use and operation.

4. Installation and Care of Plumbing Fixtures Furnished by Occupant

Every plumbing fixture furnished by the occupant of a dwelling unit shall be properly installed and shall be maintained in good working condition, kept clean and sanitary, and free of defects, leaks or obstructions.

5. Extermination of Dwelling Units

The occupants of a dwelling unit in a dwelling or multi-family dwelling shall be responsible for such extermination as when required by Sec. 11.6.4.B.2.d.

B. Responsibilities of Property Owners

1. Exterior Property Areas

No person shall occupy as owner-occupant or let to another for occupancy any dwelling unit for the purpose of living therein, or premises, which does not comply with the following requirements:

a. Sanitation

All exterior property areas shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage.

b. Grading and Drainage

All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon.

c. Noxious Weeds

All exterior property areas shall be kept free from species of weeds or plant growth which are noxious or detrimental to the public health.

d. Insect and Rodent Harborage

Every owner of a dwelling or multi-family dwelling shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior areas of the premises; except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation exists in the shared or public parts of the premises of the other than a single-family dwelling, extermination shall be the responsibility of the owner.

e. Accessory Structures

All accessory structures including detached garages shall be maintained structurally sound and in good repair.

2. Interior Areas

No person shall occupy as owner-occupant, or let to another for occupancy, any dwelling, multi-family dwelling, dwelling unit, rooming house, rooming unit or portion thereof, for the purpose of living therein which does not comply with the following requirements:

a. Sanitation

The interior of every dwelling and multi-family dwelling used for human habitation shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. Rubbish, garbage, and other refuse shall be properly kept inside temporary storage facilities as required under Sec. 11.6.3.E.6. and Sec. 11.6.3.E.7.

b. Insect and Rodent Harborage

Buildings used for human habitation shall be kept free from insect and rodent infestation, and where insects or rodents are found they shall be promptly exterminated by acceptable processes which will not be injurious to human health.

c. Extermination from Buildings

Every owner of a dwelling or multi-family dwelling shall be responsible for the extermination of insects, rodents, vermin or other pests whenever infestation exists in two or more of the dwelling units, or in the shared or public parts of the structure.

d. Extermination of Dwelling Units

The occupants of a dwelling unit in a dwelling or multi-family dwelling shall be responsible for such extermination within the unit occupied by him whenever the occupants dwelling unit is the only unit in the building that is infested.

e. Responsibility of Owner

Notwithstanding the foregoing provisions, whenever infestation of rodents is caused by failure of the owner to maintain any dwelling or multi-family dwelling in a rodent-proof condition, extermination of such rodents shall be the responsibility of the owner.

Sec. 11.6.5. Powers of Department

- A. The City is hereby designated to exercise the powers.
- B. The City 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:
 - 1. To investigate the dwelling conditions in the City in order to determine which dwellings therein are unfit for human habitation;
 - 2. To investigate the dwelling conditions in the City in order to determine which dwellings therein are unsafe;
 - 3. To administer oaths, affirmations, examine witnesses and receive evidence;
 - 4. To enter upon premises for the purpose of making examinations, provided such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and
 - 5. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this Article, or to impose such duties upon the regularly appointed plumbing, environmental, heating and air conditioning, and electrical inspectors, as approved by the City.

Sec. 11.6.6. Inspections

- A. The inspector is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the City and its extraterritorial jurisdiction in order that the inspector may perform the duty of safeguarding the health and safety of the occupants of dwellings and of the general public. Should the owner or occupant

of any dwelling refuse to permit the inspector reasonable access, such inspector shall proceed to obtain a search warrant pursuant to G.S. 15-27.2.

- B. It shall be unlawful for any owner or the agent of any owner to occupy, rent or offer for occupancy or rent as a dwelling any structure or part thereof, upon which an order to repair, alter or improve, or to vacate and close, or to demolish, has been issued without said owner or agent receiving the authority to do so by the City after confirmation of the dwelling compliance with the Housing Code. If the dwelling is vacant as a result of prior inspector orders, the owner or agent must first file application for and secure a certificate of housing code compliance from the City. The City shall issue a certificate of housing code compliance when, after examination and inspection, it is found that the structure conforms to the provisions of this chapter. No fee shall be charged for the first inspection following the expiration of an order to repair, alter or improve, or to vacate and close, or to demolish a dwelling in order to ascertain compliance with inspection orders or for one inspection request following the issuance of an order to repair, alter or improve, or one inspection due to a request for inspection in order to obtain a certificate of housing compliance. For each inspection in excess of this, there shall be a charge of \$60.00.
- C. The following conditions are necessary for the issuance of a certificate of housing code compliance:
 - 1. The owner or authorized agent of any dwelling unit vacated after an order to repair or vacate and close has been issued shall apply to the City for a certificate of housing code compliance prior to the dwelling unit being reoccupied.
 - 2. After the repairs have been completed the property owner or agent shall make application for a certificate of housing code compliance. The City shall cause an inspection to be made of the dwelling unit specified in the application.
 - 3. If after examination and inspection the dwelling unit is found to conform to the provisions of this Chapter 11, a certificate of housing code compliance shall be issued to the owner of the dwelling unit.
 - 4. If after examination and inspection the dwelling is not found to conform to the provisions of this Chapter 11, the owner of the dwelling unit shall be provided a list of violations that must be corrected before a certificate of housing code compliance may be issued or the dwelling unit occupied.

5. The certificate of housing code compliance shall state:
 - a. The date of issue.
 - b. The address of the dwelling or dwelling unit.
 - c. The name of the person to whom it is issued.
 - d. The certification that the dwelling or dwelling unit complies with all applicable provisions of this Chapter 11.

Sec. 11.6.7. Abatement; Hearing on Charges; Filing; Petition and Charges; Investigation; Time and Conduct of Hearing

Whenever a petition is filed with the inspector charging that any dwelling is unfit for human habitation or whenever it appears to the inspector (on his own motion) that any dwelling is unfit for human habitation, the inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties having an interest in such dwelling including lien holders and tenants, if any, as the same may be determined by reasonable diligence, a complaint setting forth the charges, The complaint shall contain a notice that a hearing will be held before the inspector (or his designated agent) at a place within the County in which the property is located therein fixed not less than 10 days nor more than 30 days after the serving of such complaint; that the owner and parties in interest shall be given a right to file an answer and to 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 inspector.

Sec. 11.6.8. Service of Order, Contents

If after notice and hearing, the inspector determines that the dwelling is unfit for human habitation pursuant to the minimum housing code standards of *Sec. 11.6.3.*, he shall state, in writing, his findings of fact in support of such determination and shall issue and cause to be served upon the owner other parties having an interest in the dwelling, an order stating the following:

- A. If the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, not to exceed 50 percent of the value, requiring the owner within the time specified, to repair, alter or improve such dwelling to render it fit for human habitation or vacate and close the dwelling as a human habitation; or
- B. If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, not to exceed 50 percent

of the value, requiring the owner, within the time specified in any event and not less than 90 days, to repair, alter or improve such dwelling to render it fit for human habitation, or remove or demolish such dwelling.

- C. Dwellings ordered vacated and closed shall have all outer doors firmly locked and basement, cellar and first-story windows barred or boarded to prevent entry, and shall not again be used for human habitation until a Certificate of Housing Code Compliance has been issued pursuant to *Sec. 11.6.6.C.*
- D. If the owner has vacated and closed a dwelling pursuant to an order issued by the inspector as provided in *Sec. 11.6.8.A.*, or if a dwelling is vacated and closed by the owner by the order of an ordinance adopted by Council and remains vacated and closed for a period of 1 year pursuant to the order or ordinance; and if the Council shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State; then in such circumstances, after the expiration of such 1-year period, the Council may enact an ordinance and serve such ordinance upon the owner, requiring that the owner either:
 1. Repair or demolish and remove the dwelling within 90 days, if the repair necessary to render the dwelling fit for human habitation would cost less than 50 percent of the present value of the dwelling; or
 2. Demolish and remove the dwelling within 90 days if the repair necessary to render the dwelling fit for human habitation would cost in excess of 50 percent of the present value of the dwelling.Such order shall be recorded in the Register of Deeds of Wake County and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this order within the time fixed by such order, then the City shall cause such dwelling to be repaired or demolished and removed pursuant to said order. The cost of such repairs, alterations, improvements, or demolition and removal shall be a lien on the property as prescribed in *Sec. 11.6.14.*

- E. Whenever a determination is made pursuant to this Article that a dwelling must be vacated and closed, or removed, or demolished, notice of the order shall be given by first class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request with the City for such notices. No removal or demolition by action of the public officer shall occur until a minimum of 45 days has elapsed from the mailing of such notice.

Sec. 11.6.9. Methods of Service

- A. Complaints or orders issued by an inspector shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- B. If the identities of any owners or whereabouts of persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, or if the owners are known but have refused to accept service by registered or certified mail, the inspector shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest, then the serving of such complaint or order upon such owners or 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 Sec. 11.6.7. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

Sec. 11.6.10. Lis Pendens

- A. After an inspector issues a complaint containing a notice of hearing or issues an order pursuant thereto, any inspector shall file a notice of *lis pendens* with the Clerk of Superior Court of the county where the property is located. A copy of the complaint containing a notice of hearing or a copy of the order shall be attached to the *lis pendens*. When the *lis pendens* is filed with the Clerk, it shall also be served on the owners and parties in interest in the building or dwelling, including any lienholders and tenants who may be determined by the exercise of reasonable diligence.
- B. Any inspector may cancel the *lis pendens* upon a determination by that inspector that the property fully complies with the Minimum Housing Code, and Article

11.6 of this UDO. Cancellation of the *lis pendens* must be made in a writing signed by the inspector and filed with the Clerk of Court.

Sec. 11.6.11. Board of Adjustment to Hear Appeals

An appeal from any decision or order of the inspector pursuant to this Article may be made by the person aggrieved thereby or by any officer, board or commission of the City. Any such appeal shall be made to the Board of Adjustment and governed by the procedures set forth in G.S. 160A-446.

Sec. 11.6.12. Placarding Premises

If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the City may cause such dwelling to be repaired, altered or improved or to be vacated and closed; the City may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

The removal of such placard when posted pursuant hereto shall be unlawful.

Sec. 11.6.13. Approval by Governing Body of Removal or Demolition of Dwelling

If the owner fails to comply with an order to remove or demolish a dwelling, the City may cause such dwelling to be removed or demolished. Provided that placarding of the premises as set forth in Sec. 11.6.12. shall not be exercised until the Council shall have by ordinance found the property to be unfit for human habitation and which property or properties were so found described in the ordinance. Such ordinance shall be recorded in Register of Deeds of Wake County and shall be indexed in the name of the property owner in the grantor index.

Sec. 11.6.14. Lien On Premises for Costs; Sale of Materials, etc.

- A. The amount of the cost of repairs, alterations or improvements to the property; vacating and closing of the property; or removal or demolition of the property by the City of Raleigh shall be a lien against the real property upon which such costs were incurred.
- B. Any lien filed pursuant to this section shall have the same priority and be collected as set forth in G.S. 160A-216 et seq.

- C. If the dwelling is removed or demolished by the City of Raleigh, the materials of the dwelling and any personal property, fixtures or appurtenances found in or attached to the dwelling shall be sold and the proceeds of the sale shall be credited against the cost of the removal or demolition. Any balance remaining after the sale shall be deposited with the Superior Court and shall be secured in such manner as may be directed by the court and shall be disbursed by the court to the persons found to be entitled to the proceeds thereof as established by order or decree of the court.
- D. Nothing in this chapter 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 any method authorized by this UDO, the Code or the laws of the State of North Carolina.

Sec. 11.6.15. Alternate Remedies

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

Sec. 11.6.16. Penalty

- A. It shall be unlawful for the owner to occupy or to permit the occupancy by others or for anyone to occupy a dwelling which has been posted with the notices authorized by Sec. 11.6.12. after the time prescribed in the notice for the vacation of said dwelling. Each day's occupancy after said date shall be a separate and distinct offense.
- B. If any person shall violate any provision of this chapter, he shall be guilty of a misdemeanor and shall be punished as provided by law.
- C. Any owner of a dwelling who fails to comply with an order to repair, vacate and close or demolish any dwelling determined to be unfit for human habitation pursuant to the provisions contained in Sec. 11.6.7. and Sec. 11.6.8., or who permits the reoccupancy of an unfit dwelling in violation of Sec. 11.6.6. shall be subject to a civil penalty of \$500.00 for the first day following the expiration of an order to repair, vacate and close or demolish any dwelling or following a determination that an unfit dwelling has been reoccupied in violation of Sec.

11.6.6.B. In each instance, a penalty of \$100.00 per day shall be imposed for each subsequent day that the unfit dwelling remains in violation of an order issued pursuant to Sec. 11.6.7. and Sec. 11.6.8. or in violation of Sec. 11.6.6.B. If a person fails to pay the civil penalty within 30 days after being notified of the amount due, the City may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

- D. Any owner of a dwelling whose property shall be subject to an order to repair, vacate and close, or demolish said dwelling or who permits the reoccupancy of an unfit dwelling as provided in subsection (c) shall on the second offense occurring within 1 year be subject to an additional civil penalty of \$1,000.00 for the first day following the expiration of the order to repair, vacate and close or demolish said dwelling or the unlawful re-occupancy of the unfit dwelling. In each instance, a penalty of \$250.00 per day shall be imposed for each subsequent day that the unfit dwelling remains in violation of the order or remains unlawfully occupied. If a person fails to pay the civil penalty within 30 days after being notified of the amount due, the City may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.
- E. Any owner of a dwelling who fails to comply with an order to repair, vacate and close or demolish any dwelling determined unfit for human habitation pursuant to the provisions contained in Sec. 11.6.12. and Sec. 11.6.13. shall be subject to an additional civil penalty of \$1,000.00 for the first day following the effective date of a City Council Ordinance declaring said dwelling to be unfit for human habitation or ordering it to be repaired or demolished. In each instance, a penalty of \$250.00 per day shall be imposed for each subsequent day that the unfit dwelling remains in violation of the Ordinance or remains unlawfully occupied. If a person fails to pay the civil penalty within 30 days after being notified of the amount due, the City may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

Sec. 11.6.17. Administrative Fee

In addition to any other charge, any owner of a dwelling, dwelling unit or rooming unit located within the City and its extraterritorial jurisdiction shall be subject to an administrative fee of \$325.00 upon an inspection hearing disclosing violations of minimum housing code standards Sec. 11.6.3. In addition to any other charge, any owner of a dwelling, dwelling unit or rooming unit located within the City and its

extraterritorial jurisdiction shall be subject to an administrative fee of \$650.00 upon any additional inspection hearing disclosing violations of minimum housing code standards Sec. 11.6.3. within the same 12-month period. The property owner may also be assessed any costs incurred in obtaining service including legal publication of notice of complaint charges, hearing notice and findings of fact and orders related to the dwelling.

Article 11.7. Manufactured Homes

Sec. 11.7.1. Inspection of Manufactured Homes Certificate Required

- A. All manufactured homes manufactured after September 1, 1971, shall bear permanently attached thereto a label attesting to compliance with the provisions of G.S. 143-149.
- B. The Development Services Department shall inspect each manufactured home to determine whether the manufactured home complies with this section. Such inspection shall be as follows:

1. Manufactured Home

The inspector shall inspect each manufactured home for physical damage and determine that conditions of health and sanitation are met. Each manufactured home shall comply with Title 11, Chapter 8, §.0900, et seq. of the North Carolina Administrative Code.

2. Electrical

Upon receipt of a certificate signed by a licensed electrician representing a licensed electrical contractor, certifying that the electrical system is properly grounded and free of short circuits, the inspector shall verify that the matters stated in the certificate are true.

3. Plumbing

The inspector shall inspect the plumbing of each manufactured home to assure that the plumbing is in a satisfactory working condition. As permitted by visual inspection, without the removal of walls, flooring, ceiling, or roofing, the inspector shall be satisfied that all plumbing fixtures are trapped and vented.

- C. The certificate required by subsection B.2., above shall contain the license number of the electrical contractor and shall be deemed to be in compliance with said requirement if said certificate, upon identifying the manufactured home, contains language substantially as follows:

"This is to certify that the described unit has been properly grounded and is free of short circuits. The circuitry has been rung out with a meggar and it has been found to ring clear."

- D. All manufactured homes shall be erected or placed on a foundation as indicated in the publication "State of North Carolina, Procedures and References Codes for Mobile Homes, Modular Dwelling Units and other Factory Built Structures" as published by the North Carolina Department of Insurance. All manufactured homes shall be connected to the appropriate utilities as approved by the City of Raleigh.

Sec. 11.7.2. Permit Requirements in Floodprone Areas

No building permits shall be issued for the placement, replacement, or substantial improvement, as defined in Part 12 of this UDO, of manufactured homes, foundations, stands, or pads which are located or to be located in floodprone areas, delineated as provided in *Article 9.3. Floodprone Area Regulations*, unless:

- A. The provisions of *Sec. 11.4.6.* are met;
- B. Load-bearing foundation supports such as piers or pilings when used must be placed on stable soil or concrete footings no more than 10 feet apart, and when foundation supports are more than 6 feet above ground level, the support must contain steel reinforcement; and
- C. Over-the-top and frame ties to ground anchors resist flotation, collapse, or lateral movement. Specifically:
 - 1. Over-the-top ties are provided at each of the 4 corners of the manufactured home, with 2 additional ties per side at intermediate locations; and 1 additional tie per side for manufactured homes less than 50 feet long;
 - 2. Frame ties are provided at each corner of the manufactured home with 5 additional ties per side at intermediate locations, and 4 additional ties per side for manufactured homes less than 50 feet long; and
 - 3. All components of the anchoring system are capable of carrying a force of 4,800 pounds.

Article 11.8. Demolition by Neglect of Historic Landmarks and Structures Within Historic Overlay Districts

Sec. 11.8.1. Applicability

- A. The purpose of this section is to prevent the gradual deterioration of historic resources due to a failure to provide normal and customary maintenance such that the unique attributes and character of the resource or historic district might be lost due to decay, deterioration or structural defects.
- B. The exterior features of any building or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant feature), or any type of outdoor advertising sign either designated as a Historic Landmark or found to be a contributing resource to the Historic Overlay District shall be preserved by the property owner against decay and deterioration and kept free from structural defects. For purposes of this section, the term "property owner" shall include such other person who may have interest, legal possession, custody, and/or control of the property
- C. Only Historic Landmarks and contributing resources to Historic Overlay Districts shall be governed by this section.
- D. Only the Raleigh Historic Development Commission may file a petition alleging Demolition by Neglect to a contributing Historic Resource.
- E. Petitions alleging Demolition by Neglect shall be filed and considered in accordance with the provisions of this Article.
- F. Nothing contained within this Article shall diminish the City's power to declare an unsafe building or a violation of the minimum housing code.

Sec. 11.8.2. Petition and Action

A. Filing of Petition

1. Petitions charging that a structure is undergoing demolition by neglect shall be filed with the City.
2. The Historic Development Commission may file a petition on its own initiative.
3. Any official, commission, or department of the City of Raleigh, any state

agency, or any local or state historical, preservation, neighborhood, or business association may request in writing to the Historic Development Commission that it make a preliminary investigation of a structure to determine whether a basis exists for a determination of demolition by neglect.

4. The Historic Development Commission shall complete an investigation and notify the requestor in writing within 60 days the results of its preliminary investigation. The commission is under no obligation to file a petition on any structure. Should the commission determine that a petition is warranted, the commission shall prepare and file such petition within 90 days of its notification to the requestor.
5. Petitions shall be filed in a format determined by the Historic Development Commission to clearly describe and illustrate the specific defects citing in each instance the specific standard or standards (as outlined in Sec. 11.8.5.) being violated.
6. A petition alleging demolition by neglect may not be filed for the same property more frequently than once every 2 years.

B. Methods of Service

1. Complaints, notices, or orders issued by the Director shall be served upon property owners either personally or by registered or certified mail.
2. If the whereabouts of such persons are unknown and the same cannot be ascertained by the Director in the exercise of reasonable diligence, and the Director shall make an affidavit to that effect stating the steps taken to determine and locate the property owners, then the serving of such complaint, notice, or order may be made by publishing the same once each week for 2 successive weeks in a newspaper generally circulated within the City. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

C. Hearing on Petition

1. Whenever a petition is filed with the City charging that a structure is undergoing demolition by neglect, the Director shall make a preliminary investigation of the charges within 21 days of the filing of the petition.
2. If after preliminary investigation the Director determines that the charges

in the aggregate do not rise to the applicability of *Sec. 11.8.1.A.* and *Sec. 11.8.1.B.*, the Director shall provide written notification to the Historic Development Commission outlining in general terms the reasons for not applying the provisions of this section. The petition shall be returned to the Historic Development Commission.

3. If the investigation discloses a basis for such charges, within 14 additional days the Director shall issue and cause to be served upon the property owners, as may be determined by reasonable diligence, a complaint stating the charges in that respect, including a copy of the petition and this section of the UDO. The complaint shall contain a notice that a hearing will be held before the Director at a place fixed not less than 30 nor more than 45 days after the serving of such complaint; that the property owners shall be given a right to 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. The Historic Development Commission shall also be given notice of the hearing.
4. The purpose of the hearing is to receive evidence concerning the charge of deterioration and to ascertain whether the property owner wishes to make a claim of undue economic hardship.

D. Action on Petition

1. If after notice and hearing the Director determines that the structure is not undergoing demolition by neglect according to the applicability of *Sec. 11.8.1.A.* and *Sec. 11.8.1.B.* as judged by the standards of *Sec. 11.8.5.*, the Director shall within 30 days of the hearing state in writing the findings of fact for not applying the provisions of this section. The written findings and conclusion shall be sent to the property owners and the Historic Development Commission. The petition shall be returned to the Historic Development Commission.
2. If after notice and hearing the Director determines that the structure is undergoing demolition by neglect because it is deteriorating, or if its condition is contributing to deterioration, according to the applicability of *Sec. 11.8.1.A.* and *Sec. 11.8.1.B.* as judged by the standards of *Sec. 11.8.5.*, the Director shall within 30 days of the hearing state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the property owners an order to repair within a reasonable time

specified those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated. A copy of the order shall also be sent to the Historic Development Commission.

3. In the event that the property owners wish to make a claim of undue economic hardship, the Director's order shall be stayed until after the Hardship Review Panel's determination in accordance with the procedures of *Sec. 11.8.3.*, except as provided in *Sec. 11.8.4.B.*

Sec. 11.8.3. Safeguards from Undue Economic Hardship

A. Claim of Undue Economic Hardship

1. When the property owners believe that they will be unable to obtain a reasonable return on or a reasonable beneficial use from the property owing to the effects of this section, written notice of intent to file a claim of Undue Economic Hardship must be sent to the City postmarked within 10 days following the hearing on the petition, unless oral notice of intent is made to the City during the hearing. The City shall notify the Historic Development Commission within 3 days following receipt of a written notice of intent.
2. The Economic Documentation outlined in *Sec. 11.8.3.C.* shall be provided by the claimant to the City within 45 days following the hearing on the petition for transmittal to the Hardship Review Panel.
3. Under this section, the claimant for economic hardship and the City, the Historic Development Commission, the Hardship Review Panel, and any interested party shall consult in good faith in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts shall be documented by the claimant and presented at the hearings described in *Sec. 11.8.3.B.*

B. Hardship Review Panel

1. A Hardship Review Panel shall be established to analyze documentation submitted in support of claims of undue economic hardship. The panel shall prepare a report of its determination whether the evidence supports a conclusion that the property owners will be unable to obtain a reasonable return on or a reasonable beneficial use from the property owing to the effects of this section. If in the panel's opinion a hardship exists, the report may also offer recommendations for relief of the economic hardship.

2. The City shall coordinate the selection of an ad hoc review panel. The panel shall be comprised of real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation.
3. The panel shall consist of 3 persons. Two of the persons shall be selected within 30 days of the hearing on the petition – one by the Historic Development Commission and one by the claimant. The third person shall be selected by the first 2 appointees. The City and the claimant shall bear the cost of their respective selectees and shall split the cost of the third person. If the first 2 appointees cannot agree on a third person within 45 days of the date of the hearing on the petition, the third appointee shall be selected by the City within 5 days after the expiration of the 45-day period. Members of the review panel may not be:
 - a. A person with financial interest in the property;
 - b. An employee of or paid consultant to the claimant, the City, or the Historic Development Commission; or
 - c. A person that has generated or been involved with any of the economic documentation outlined in *Sec. 11.8.3.C*.
4. The City shall provide the Hardship Review Panel with the Economic Documentation provided by the claimant within 5 days of the panel's formation or when the documentation is received, whichever occurs later.
5. Within 90 days of the hearing on the petition for Demolition by Neglect, the Hardship Review Panel shall review the Economic Documentation, hold a hardship hearing, and forward its findings and determination to the City.
 - a. The City shall provide notice that a hardship hearing will be held before the panel at a place fixed not less than 30 nor more than 45 days after the panel is formed; that the property owners shall be given a right to 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 Hardship Review Panel. The Historic Development Commission shall also be given notice of the hearing.
 - b. The panel shall hold its initial meeting to review the claimant's submitted Economic Documentation within 10 days of when the panel is formed. The panel may at any time request any additional information as set forth in *Sec. 11.8.3.C*.
 - c. The purpose of the hardship hearing is to review the claimant's submitted Economic Documentation, receive additional evidence concerning the claim of undue economic hardship, and to ascertain whether additional economic documentation is required.
 - d. Following the Hardship Review Panel's hearing on the claim, the panel shall consider all information received and cause to be made a determination of undue or no undue economic hardship. The panel shall prepare a written report of its determination that shall include findings of fact for such determination.
 - e. If in the panel's opinion a hardship exists, the panel's report shall establish a monetary value of capital expenditure on the property that the panel believes would yield a return on the investment without economic hardship. If the panel believes the property cannot support any capital expenditure, it shall so state. The panel may also offer recommendations for relief of the economic hardship.
6. The determination of the Hardship Review Panel shall be final, subject to appeal as noted in *Sec. 11.8.4.B*.

C. Economic Documentation

1. When a claim of undue economic hardship is made owing to the effects of this Article, the property owners must provide evidence describing the circumstances of hardship. The minimum evidence provided by the property owners shall include for all property:
 - a. The property owner's knowledge of the landmark or historic overlay designation at the time of acquisition, or whether the property was designated subsequent to acquisition;
 - b. Form of ownership or operation of the property (sole proprietorship, for-profit corporation or non-profit corporation, limited partnership, joint venture, etc.) or legal possession, custody, and control;
 - c. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance, and any terms of financing between buyer and seller;

- d. The annual gross and net income, if any, from the property for the previous 3 years;
 - e. Itemized operating and maintenance expenses for the previous 3 years, including proof that adequate and competent management procedures were followed;
 - f. Past capital expenditures during ownership of current owner;
 - g. Depreciation deduction and annual cash flow before and after debt service, if any, for the previous 3 years;
 - h. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous 3 years;
 - i. Real estate taxes for the previous 3 years and assessed value of the property according to the 2 most recent Wake County assessed valuations;
 - j. All appraisals obtained within the previous 3 years by the owner or applicant in connection with the purchase, financing or ownership of the property;
 - k. Any state or federal income tax returns on or relating to the property for the previous 3 years;
 - l. Any listing of the property for sale or lease within the previous 3 years, price asked and any offers received, the name of the any real estate broker or firm engaged to sell or lease the property, and any advertisements placed for the sale or rent of the property;
 - m. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;
 - n. An estimate of the cost of the required construction, alteration, repair, demolition, or removal required by the order;
 - o. The estimated market value of the property in its current condition and such value after completion of the required construction, alteration, repair, or removals;
 - p. A report from an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;
 - q. An analysis of common costs expended in both rehabilitation and comparable new construction immaterial to which type of project is undertaken;
 - r. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
2. The review panel may receive and consider studies and economic analyses from other city agencies and from private organizations relating to the property in question.
 3. The review panel may require that the property owners furnish such additional information that is relevant to its determination of undue economic hardship. The review panel may request the City to furnish additional information as it believes is relevant. The review panel shall also state which forms of financial proof it deems relevant and necessary to a particular case.
 4. In the event that any of the required information is not reasonably available to the property owners or the City and cannot be obtained by the owner or the City, the owner or City shall describe the reasons why such information cannot be obtained.

D. Action on Hardship Review Panel's Determination

1. The City shall provide a copy of the Hardship Panel's report to the property owner and to the Historic Development Commission.
2. In the event of a determination of no undue economic hardship, the City shall cause to be re-issued the stayed order for such property to be repaired within the time specified.
3. In the event of a determination that undue economic hardship would result from an order to repair, the Historic Development Commission shall within 60 days of its receipt of the report prepare a Plan for Relief of Economic Hardship.
4. Should the Historic Development Commission fail to act within 60 days of its receipt of the report, the City shall rescind the order for repair and return the petition to the Historic Development Commission.

E. Plan for Relief of Economic Hardship

1. In the event of a determination of undue economic hardship, the Historic Development Commission shall develop a plan to relieve the economic hardship. This plan may include, but is not limited to,
 - a. Capital expenditure by the property owner,
 - b. Property tax relief as may be allowed under North Carolina law,
 - c. Loans or grants from the City, the County, or other public, private, or nonprofit sources,
 - d. Acquisition by purchase or eminent domain,
 - e. Building code modifications,
 - f. Changes in applicable zoning regulations, or
 - g. Relaxation of the provisions of this section sufficient to mitigate the undue economic hardship.
2. The Commission shall give precedence to recommendations for relief of hardship contained in the report of the Hardship Review Panel, if any; the plan should include the Commission's rationale for not incorporating any Panel recommendations into the Commission's plan. The plan should also include a statement documenting good faith consultation as outlined in *Sec. 11.8.3.A.3.*
3. The Commission's plan shall utilize the Hardship Review Panel's estimation of monetary value of capital expenditure outlined in *Sec. 11.8.3.B.5.e.* (if any) as a budget figure to recommend prioritized repairs that shall to the greatest extent possible stabilize the effects of deterioration upon the property.
4. The Commission shall report its plan to the City. The City shall provide notice that a hearing will be held before the Director at a place fixed not less than 10 nor more than 25 days after the report is received; that the property owners, the Historic Development Commission, and the Hardship Review Panel shall be given a right to give testimony; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Director. The Historic Development Commission and Hardship Review Panel shall also be given notice of the hearing.
5. Following the hearing, City shall either approve the Plan or refer it to the Historic Development Commission for amendment. Referrals for amendment shall specify items to be amended. The amended report shall

be returned to the City by the Historic Development Commission within 15 days. Upon receipt of the approved or amended Plan, the City shall cause to be re-issued the stayed order for such property to be repaired within the time specified, and according to the provisions of the approved plan.

Sec. 11.8.4. Appeals

A. Determination of Demolition by Neglect

Determinations made by the Planning Director may be appealed to the Board of Adjustment. To perfect such an appeal, application must be filed by an aggrieved party with the Board of Adjustment within 10 days following receipt of the order for repair of the property. Appeals shall be in the nature of certiorari.

B. Determination of Undue Economic Hardship

Determinations made by the Hardship Review Panel and the Plan for Relief of Economic Hardship prepared by the Historic Development Commission may be appealed to the Board of Adjustment. To perfect such an appeal, application must be filed by an aggrieved party with the Board of Adjustment within 10 days following receipt of the determination or the order for repair of the property. Appeals shall be in the nature of certiorari.

Sec. 11.8.5. Standards

A. Determination of Demolition by Neglect

The property owners shall, upon written request by the City, repair such exterior features if they are found to be deteriorating, or if their condition is contributing to deterioration, including but not limited to any of the following defects:

1. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
2. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.
3. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
4. Deterioration or crumbling of exterior plasters or mortars.
5. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
6. Defective protection or lack of weather protection for exterior wall and roof

coverings, including lack of paint, or weathering due to lack of paint or other protective covering.

7. Rotting, holes, and other forms of decay.
8. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.
9. Heaving, subsidence, or cracking of sidewalks, steps, or pathways.
10. Deterioration of fences, gates, and accessory structures.
11. Deterioration that has a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the Historic Landmark.
12. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

B. Determination of Undue Economic Hardship

1. The determination of undue economic hardship is based solely on the characteristics of the property, independent of the owner or ownership.
2. When a claim of undue economic hardship is made, the burden of proof is upon the owner and/or parties in interest to demonstrate that:
 - a. The hardship is not of their own making; and
 - b. The property is incapable of providing a reasonable return on investment, regardless of whether that return represents the most profitable return possible, or the property is incapable of providing a reasonably beneficial use; and
 - c. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return or beneficial use; and
 - d. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

Article 11.9. Nonresidential Building or Structure Code

Sec. 11.9.1. Title

This Article shall be known and may be cited and referred to as the "Nonresidential Building or Structure Code".

Sec. 11.9.2. Purpose

In order to protect the health, safety and welfare of the City and its citizens, it is the purpose of this Article to establish minimum standards of maintenance, sanitation, and safety relating to nonresidential buildings or structures, as expressly authorized by North Carolina General Statute §160A-439. This Article provides for the repair, closing or demolition of nonresidential buildings or structures as a result of a public necessity caused by conditions that are dangerous to the public health, safety and welfare.

Sec. 11.9.3. Definitions

The following 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. "Nonresidential" means any building or structure or portion of a building or structure occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space or sleeping space for one or more human beings, either permanently or transiently.
- C. "Operator" shall mean any person who has charge, care, or control of a nonresidential building or structure, or part thereof.
- D. "Parties in interest" means all individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

- E. "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 1 year and has not been converted to another use.
- F. "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 1 year and has not been converted to another use.

Sec. 11.9.4. Applicability and Compliance

- A. This Article establishes minimum standards for all nonresidential 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.
- B. The provisions of this Article shall apply to all nonresidential buildings or structures which are now in existence or which may be built within the corporate limits of the City. Every nonresidential 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.

Sec. 11.9.5. Maintenance Standards for Nonresidential Buildings and Structures

All nonresidential 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. 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:

- A. 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, and that have holes or cracks which might admit rodents.
- B. Exterior walls that are not structurally sound or free from defects and damages or 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.
- C. 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.
 - D. Damage by fire, wind, or other causes rendering the building unsafe.
 - E. Dilapidation, decay, unsanitary conditions, or disrepair, dangerous to the health and safety of the occupants or members of the general public.
 - F. 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.
 - G. Buildings and structures including their environs that have accumulations of garbage, trash, or rubbish. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary manner.
 - H. Buildings and structures that have loose and insufficiently anchored overhanging objects, posing a danger to persons or property.
 - I. Buildings and structures including their environs that have insufficiently protected holes, excavations, breaks, projections, obstructions, and other dangerous impediments on or around walks, driveways, parking lots, alleyways, or other areas accessible to and generally used by persons on or around the premises.
 - J. Buildings and structures that have cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic, 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 shall be repaired or replaced with like or similar material according to its original use.
 - K. Buildings and structures that have objects or 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, brackets, and similar objects.
 - L. Chimneys, flues, and vent attachments thereto which are not structurally sound. Chimneys, flues, gas vents, or other draft-producing equipment 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.
 - M. 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.
 - N. Cornices which are not structurally sound or are rotten or weakened. Any rotten or weakened areas shall be repaired and/or replaced. All exposed wood shall be treated or painted.
 - O. Improperly attached gutters or down-spouts located so as to cause a hazard to pedestrian or vehicular traffic, or adjacent property.
 - P. Advertising sign structures, attached or freestanding awnings, marquees and their supporting members, and other similar attachments or structures that cause a safety hazard to the occupants or members of the general public.
 - Q. All exterior surfaces that may cause unsafe conditions due to a lack of maintenance. Exterior surfaces shall be painted or sealed to protect the underlying surface from deterioration. All exterior surfaces that have been painted shall be maintained generally free of peeling and flaking. Where 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.
 - R. Windows containing broken glass 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.
 - S. 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.

- T. Any other condition which, by the determination of the code enforcement coordinator or officer renders any building or structure dangerous or injurious to the health, safety, or general welfare of the occupants or members of the general public.

Sec. 11.9.6. Duties and Powers of Code Enforcement Coordinator or Officer

- A. The code enforcement coordinator or officer 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 code enforcement coordinator or officer:
1. To investigate the conditions of nonresidential buildings and structures in the City and to inspect nonresidential buildings and structures located in the City in order to determine which nonresidential 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 nonresidential 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 nonresidential 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.
- B. The code enforcement coordinator or officer 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:
1. To investigate nonresidential buildings and structures in the City to

determine whether they have been properly maintained in compliance with the minimum standards established by this Article so that the safety or health of the occupants or members of the general public are not jeopardized;

2. To administer oaths and affirmations, examine witnesses and receive evidence;
3. To enter upon premises for the purpose of making examinations and inspections in accordance with law; and
4. To appoint and fix duties of such officers, agents, and employees as the code enforcement coordinator or officer deems necessary to carry out the purposes of this Article.

Sec. 11.9.7. Inspections

For the purpose of making inspections, the code enforcement coordinator or officer is hereby authorized to enter, examine, and survey at all reasonable times, nonresidential buildings and structures. If entry upon the premises for purposes of investigation is necessary, such entry shall be made with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises, or if permission is not granted, pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2.

Sec. 11.9.8. Procedure for Enforcement

A. Preliminary Investigation

Whenever it appears to the code enforcement coordinator or officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this Article, the code enforcement coordinator or officer shall undertake a preliminary investigation, including, but not limited to, an inspection of the premises and discussion with any witnesses.

B. Complaint and Hearing

If the preliminary investigation discloses evidence of a violation of the minimum standards established by this Article, the code enforcement coordinator or officer shall issue and serve a complaint upon the owner of and any parties in interest, as may be established by reasonable due diligence, of the

nonresidential building or structure. The complaint shall set forth and describe the violation and contain a notice stating that a hearing will be held before the code enforcement coordinator or officer at a place and time set forth in the notice; that the hearing shall be held not less than 10 days nor more than 30 days after service of the complaint; that the owner and any parties in interest shall be given the right to answer the complaint and to appear in person 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 control in hearings before the code enforcement coordinator or officer.

C. Procedure after Hearing

1. If, after notice and hearing, the code enforcement coordinator or officer determines that the nonresidential building or structure has been maintained in that the property meets the minimum standards established by this Article, the code enforcement coordinator or officer 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 code enforcement coordinator or officer determines that the nonresidential 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 code enforcement coordinator or officer 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 paragraphs 3. and 4. below and subject to the limitations set forth in *Chapter 6. Use Regulations* of this UDO.
3. If the code enforcement coordinator or officer determines that the cost of repair, alteration, or improvement of the building or structure would not exceed 50 percent of its then current value, then the code enforcement coordinator or officer shall state in writing the findings of fact in support of such determination and issue an order that the owner, within a time specified in the order, either (i) repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by this Article or (ii) vacate and close the nonresidential building or structure for any use.

4. If the code enforcement coordinator or officer determines that the cost of repair, alteration, or improvement of the building or structure would exceed 50 percent of its then current value, then the code enforcement coordinator or officer shall state in writing the findings of fact in support of such determination and issue an order that the owner, within a time specified in the order, either (i) remove or demolish the nonresidential building or structure or (ii) repair, alter or improve the nonresidential 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 nonresidential building or structure or (ii) vacate and close the nonresidential building or structure, the code enforcement coordinator or officer shall submit to the City Council an ordinance ordering the code enforcement coordinator or officer to cause such nonresidential 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 code enforcement coordinator or officer 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 nonresidential building or structure or (ii) repair, alter, or improve the nonresidential building or structure, the code enforcement coordinator or officer shall submit to the City Council an ordinance ordering the code enforcement coordinator or officer to cause such nonresidential building or structure to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a nonresidential 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 code enforcement coordinator or officer shall cause the building or structure to be removed or demolished.

Sec. 11.9.9. Limitations on Orders and Ordinances—Historic Landmark or Historic District

Notwithstanding any other provision of this Article, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the City Council determines, after a public hearing, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order issued by the code enforcement coordinator or officer pursuant to *Sec. 11.9.11.* and the ordinance approved by City Council may only require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this Article.

Sec. 11.9.10. Limitations on Orders and Ordinances—Vacant Manufacturing Facility or Vacant Industrial Warehouse

Notwithstanding any other provision of this Article, an order issued by the code enforcement coordinator or officer pursuant to *Sec. 11.9.11.* and the ordinance approved by City Council 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/or 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.

Sec. 11.9.11. Vacated and Closed Nonresidential Buildings or Structures

A. If the City Council has adopted an ordinance or the code enforcement coordinator or officer 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 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 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 nonresidential building or structure within 90 days or (ii) repair, alter, or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this Article within 90 days.
 2. The ordinance shall require that if the owner does not either (i) demolish and remove the nonresidential building or structure within 90 days or (ii) repair, alter, or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this Article within 90 days, then the code enforcement coordinator or officer shall demolish and remove the nonresidential 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 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 90 days, the code enforcement coordinator or officer shall demolish and remove the nonresidential building or structure.

Sec. 11.9.12. Methods of Service of Complaints and Orders

- A. Complaints or orders issued by the code enforcement coordinator or officer under this Article shall be served upon persons by personal service or by registered or certified mail, in conjunction with first class mail. When the manner or service is by first class mail in conjunction with registered or certified mail, and the registered or certified mail is unclaimed or refused, but the first class mail is not returned by the post office within 10 days after mailing, service shall be deemed sufficient. The person mailing the complaint or order by first class mail shall certify that fact and the date thereof, and such certificate shall be conclusive in the absence of fraud. If first class mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the subject property.
- B. If the identities of any owner or the whereabouts of parties in interest are unknown and cannot be ascertained by the code enforcement coordinator or officer in the exercise of reasonable diligence, and the code enforcement

coordinator or officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owner or other parties in interest may be made by publication in a newspaper having general circulation in the City at least once no later than the time by 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 subject.

Sec. 11.9.13. In Rem Action by The Code Enforcement Coordinator or Officer

After failure of an owner of a nonresidential building or structure to comply with an order of the code enforcement coordinator or officer 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), the code enforcement coordinator or officer shall proceed to cause the nonresidential 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 code enforcement coordinator or officer shall post on the main entrance of any nonresidential 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.

Sec. 11.9.14. 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 code enforcement coordinator or officer 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 on other real property of the owner, excluding the subject property, as provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

B. If the nonresidential building or structure is removed or demolished by the code enforcement coordinator or officer, the code enforcement coordinator or officer shall offer for sale any 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. Any balance remaining shall be deposited in the Superior Court by the code enforcement coordinator or officer, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order or decree of the Court. 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.

Sec. 11.9.15. Ejectment

If any occupant fails to comply with an order to vacate a nonresidential building or structure, a civil action may be filed 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 the defendant any person occupying the nonresidential 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 code enforcement coordinator or officer produces a certified copy of an ordinance adopted by the City Council pursuant to G.S. 160A-439(f) and this UDO to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential 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 nonresidential 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 30 days before the filing of the summary ejectment proceeding, that the City Council has ordered the code enforcement coordinator or officer to proceed to exercise his duties under G.S. 160A-439(f) and this UDO to

vacate and close or remove and demolish the nonresidential building or structure.

Sec. 11.9.16. 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 Wake 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).

Sec. 11.9.17. 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 Raleigh 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.

Sec. 11.9.18. Board of Adjustment to Hear Appeals

- A. All appeals which may be taken from decisions or orders of the code enforcement coordinator or officer 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 code enforcement coordinator or officer may be taken by any aggrieved party. Any appeal from the code enforcement coordinator or officer shall be taken within 10 days from the rendering of the decision or service of the order, and shall be taken by filing with the code enforcement coordinator or officer, 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 code enforcement coordinator or officer shall transmit to the Board all the papers constituting the record upon which the appealed decision was made. When the appeal is from a decision of the code enforcement coordinator or officer refusing to allow the aggrieved party to act, the code enforcement coordinator or officer's decision shall remain in force until modified or reversed. When the appeal is from a decision of the code enforcement coordinator or officer requiring the aggrieved party to act, the appeal shall have the effect of suspending the requirement until the hearing of the

appeal by the Board; however, should the code enforcement coordinator or officer certify to the Board, after the notice of appeal is filed, that by reason of the facts stated in the certification, 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. The restraining order may be granted for due cause shown upon not less than 1 day's written notice to the code enforcement coordinator or officer, by the Board or by a court of general jurisdiction upon petition made pursuant to G.S. 160A-446(f) and this UDO.

2. The Board shall fix a reasonable time for the hearing of all appeals, shall give notice to all 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 appealed or order, and may make such decision and order as ought to be made in the matter, and to that end it shall have all the powers of the code enforcement coordinator or officer. The concurring vote of $\frac{4}{5}$ of the members of the Board shall be necessary to reverse or modify any decision or order of the code enforcement coordinator or officer. In any case when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this Article, the Board may 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 15 days of the decision of the Board.

Sec. 11.9.19. Temporary Injunction Remedy for Aggrieved Person

Any party aggrieved by an order issued by the code enforcement coordinator or officer or a decision rendered by the board of adjustment shall have the right within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction pending a final disposition of the cause, as provided by G.S. 160A-446(f).

Sec. 11.9.20. 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 provisions 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.

Sec. 11.9.21. Violations; Penalty

- A. It shall be unlawful for the owner of any nonresidential 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 code enforcement coordinator or officer duly made and served in accordance with the provisions of this Article, within the time specified in the order. 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 nonresidential building or structure, with respect to which an order has been issued, 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. Each day that such occupancy continues shall constitute a separate and distinct offense.
- B. The violation of any provision of this Article shall constitute a misdemeanor, as provided by G.S. 14-4.
- C. In addition to or in lieu of the other remedies provided by this Article, any owner of a nonresidential building or structure that fails to comply with an order of the code enforcement coordinator or officer within the time specified therein, shall be subject to a civil penalty in the amount of \$50.00 for the first offense, \$100.00 for the second offense in the calendar year, and \$250.00 for the third and subsequent offenses in the calendar year. Each subsequent offense after the third will be subject to a civil penalty of \$250.00. Each 30-day period, or part thereof, in which a violation continues will constitute a separate and distinct offense.

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