



City of Boiling Spring Lakes

Community Appearance Commission

February 13, 2023
City Hall – 6:00 pm

AGENDA

- Call to Order
- Roll Call
- Approval of Agenda
- Public Comment
- Old Business
 - Election of Officers – Chairman, Vice-Chairman, and Secretary
 - Nominations from members for the positions
 - Motions and votingNewly elected officers now take seats and assume responsibility for duties
- New Business
 - Recommendation to amend Chapter 2 Article III. – Boards, Committees and Commissions, Division 3. – Community Appearance Commission, Section 2.84. – Powers and Duties of the City Ordinances.
 - Recommendation to amend Chapter 4 – Buildings and Building of the City Ordinances by adding Article VI. – Minimum Housing Code Regulation
 - Workshop on 16 February 2023 at 6:00 pm for boards, committees and departments to present current, 12 and 18 months plans, events etc.
 - Discussion about changing the day of the meetings
- Adjournment



City of Boiling Spring Lakes

9 East Boiling Spring Road
Boiling Spring Lakes, NC 28461

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Community Appearance Committee Minutes

Date: January 17, 2023

Ruth Bek called the meeting to order at 5pm.
Commissioner Teagan Perry Hall was present.

Members Present: Shellie Teubner
 Barbara Snyder
 Kevin Higgins
 Thomas Modafferi

Members Absent: Juanita Sizemore - unexcused
 Lisa Wrenn - unexcused

Vote was taken to set the day for the monthly meeting
Second Monday at 6pm every month
Thomas Modafferi made a motion to approve the day; Shellie Teubner seconded
motion to approve the day.
All members were in favor.

Ruth Bek and Commissioner Teagan Perry Hall discussed what was expected from the
committee members and their role within the community.

Ruth Bek discussed removing the statement in the ordinance stating members of the
committee would have the authority to enter onto private property to conduct
investigations. All committee members agreed this statement should be removed.

Ruth Bek encouraged the members to attend the Planning Board workshop on 21
January 2023 at 9 am to participate in the discussion about the City Central zoning
district.

It was noted that the committee has a current budget of \$1000.00 to use for conducting
committee business.

Motion made by Barbara Snyder to table elections until the February meeting. Thomas
Modafferi made a second motion, and all members agreed.

Barbara Snyder made a motion to adjourn the meeting and Thomas Modafferi made a
second motion. All members were in favor.

Meeting adjourned at 5:50pm



City of Boiling Spring Lakes
9 East Boiling Spring Road
Southport, NC 28461

STAFF REPORT

Agenda Date:

13
February 2023

Title:

Recommendation to change Chapter 2 Article III. – Boards, Committees and Commissions, Division 3. – Community Appearance Commission, Section 2.84. – Powers and Duties of the City Ordinances

Department:

Code Enforcement

Background Information:

Section 2.84 currently allows members of the Community Appearance Commission to make 'examinations'. As the City employs full-time staff dedicated to initiate and respond to violations and complaints; and, the CAC has expressed a desire to remove this duty from the ordinance.

Financial Impact:

Positive as it may avoid possible litigation resulting from individuals acting on the City's behalf without adequate knowledge of statutory requirements to enter upon private property.

Recommendation:

Adoption of the recommendation to forward to Board of Commissioner's consideration

Attachments:

City of Boiling Spring Lakes, Ordinance Section 2.84

Sec. 2-83. - Reserved.

Editor's note— Ord. No. 01-08-02, adopted October 1, 2002, repealed § 2-83 in its entirety. Formerly said section pertained to compensation of members and derived from Code 1980, § 1-5-8.

Sec. 2-84. - Powers and duties.

The community appearance commission, upon its appointment, shall make a careful study of the visual problems and needs of the city, and shall make any plans and carry out any programs that will, in accordance with the powers granted herein, enhance and improve the visual quality and aesthetic characteristics of the city. The community appearance commission shall have the power and duty to:

Initiate, promote and assist in the implementation of programs of general community beautification in the city.

- (1) Seek to coordinate the activities of individuals, agencies and organizations, public and private, whose plans, activities and programs bear upon the appearance of the city.
- (2) Provide leadership and guidance in matters of area or community design and appearance to individuals, and to public and private organizations and agencies.
- (3) Make studies of the visual characteristics and problems of the city, including surveys and inventories of an appropriate nature, and recommend standards and policies of design for the entire area, any portion or neighborhood thereof, or any project to be undertaken.
- (4) Prepare both general and specific plans for the improved appearance of the city. These plans may include the entire area or any part thereof, and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the city or any part thereof within its area of planning and zoning jurisdiction, including public ways and areas, open spaces and public and private buildings and projects.
- (5) Recognize monthly residential and business properties that continue to improve on the aesthetics of their property.
- (6) Prepare both general and specific plans for the improved appearance of the city. These plans may include the entire area or any part thereof public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the city or any part thereof within its area of planning and zoning jurisdiction, including public ways and area, open spaces and public projects.
- (7) Formulate and recommend to the board of commissioners the adoption or amendment of ordinances (including zoning ordinances, subdivision regulations and other local ordinances regulating the use of property) that will, in the opinion of the commission, serve to enhance the appearance of the city and its surrounding areas.

- (8) Direct the attention of city officials to needed enforcement of any ordinance that may in any way affect the appearance of the city.
- (9) Seek voluntary adherence to the standards and policies of its plans.
- (10) Enter, in the performance of its official duties and at reasonable times, upon private lands and make examinations and/or surveys.
- (11) Initiates and organizes welcome packets for the new homeowners in the community.
- (12) Conduct public meetings.

(Code 1980, § 1-5-9; Ord. No. 06-01-03, 3-4-03; Res. No. 2014-07, § 1, 11-5-14)

Cross reference— Mayor and board of commissioners, § 2-26 et seq.; planning board, § 2-61 et seq.; buildings and building regulations, Ch. 4; subdivisions, Ch. 14; zoning, Ch. 17. Unified Development Ordinance.

State Law reference— Similar provisions, G.S. 160D-960.

Sec. 2-85. - Staff services, supplies.

The city manager may appropriate such amounts as he deems necessary to carry out the purposes for which it was created.

(Code 1980, § 1-5-10; Ord. No. 06-01-03, 3-4-03)

State Law reference— Similar provisions, G.S. 160D-960.

Sec. 2-86. - Annual report.

The community appearance commission shall, no later than April 15 of each year, submit to the board of commissioners a written report of its activities, a statement of its expenditures to date for the current fiscal year, and its requested budget for the next fiscal year. All accounts and funds of the commission shall be administered substantially in accordance with the requirements of the Municipal Fiscal Control Act and as required by the commissioner for financial management.

(Code 1980, § 1-5-11)

State Law reference— Similar provisions, G.S. 160D-960.

Sec. 2-87. - Financial management.

The community appearance commission is empowered to receive, on behalf of the city, any contributions from private sources and agencies, foundations, organizations, individuals, the state or federal government, or any other source. The funds shall be deposited to the account of the city.

(Code 1980, § 1-5-12; Ord. No. 06-01-03, 3-4-03)



City of Boiling Spring Lakes
9 East Boiling Spring Road
Southport, NC 28461

STAFF REPORT

Agenda Date:

13
February 2023

Title:

Recommendation to amend Chapter 4 – Buildings and Building of the City Ordinances by adding Article VI. – Minimum Housing Code Regulation

Department:

Code Enforcement

Background Information:

Currently the City has no minimum housing code standards. Adoption of minimum housing standards allows city staff to ensure protection of the health, safety and welfare of the residents of the city as authorized by Part of Article 12, Chapter 160D of the General Statutes of North Carolina. The Minimum Housing Ordinance establishes minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160D -1201.

Financial Impact:

Positive as it assists in maintaining safe and habitable structures and property values.

Recommendation:

Adoption of the recommendation to forward to Board of Commissioner's consideration

Attachments:

City of Boiling Spring Lakes, Proposed Minimum Housing Code Ordinance

Proposed Minimum Housing Ordinance

City of Boiling Spring Lakes

Article VI. Minimum Housing Code Regulations

Sec. 4-182. - Finding; purpose.

- (a) Pursuant to NC G.S. 160D-1201, it is hereby found and declared that there exists in the city dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health and otherwise inimical to the welfare of the residents of the city.
- (b) In order to protect the health, safety and welfare of the residents of the city as authorized by Part of Article 12, Chapter 160D of the General Statutes of North Carolina (G.S. 160D-1201 et seq.), it is the purpose of this Minimum Housing Ordinance to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160D -1201.

- **Sec. 4-183. - Definitions.**

The following words, terms and phrases, when used in this Minimum Housing Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

Deteriorated means that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this Minimum Housing Ordinance, at a cost not in excess of 50 percent of its value, as determined by findings of the inspector.

Dilapidated means that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this Minimum Housing Ordinance at a cost not in excess of 50 percent of its value, as determined by findings of the inspector.

Dwelling means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking and eating.

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

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Governing body means the council, board of commissioners, or other legislative body charged with governing a city or county.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

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

Inspector means an inspector of the city. An inspector shall be considered a "public officer" as defined hereinafter.

Manufactured home or mobile home means a structure as defined in G.S. 143-145(7).

Meaning of certain words. Whenever the word "dwelling," "dwelling unit," "rooming house," "rooming unit" or "premises" is used in this Minimum Housing Ordinance, it shall be construed as though they were followed by the words "or any part thereof."

Multiple dwelling means any dwelling containing more than two dwelling units.

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

Operator means any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Owner means any person who alone or jointly or severally with others:

(1) Shall have fee simple title to any dwelling or dwelling unit, and every mortgagee and owner and holder of a deed of trust and the trustee therein of record; with or without accompanying actual possession of said dwelling or dwelling unit; or

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

Parties in interest means all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

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

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

Public officer means the officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by this Minimum Housing Ordinance.

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

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

Rubbish means combustible and noncombustible waste materials, except garbage and ashes, and the term shall include, but not be limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.

Supplied means paid for, furnished, or provided by, or under the control of, the owner or operator.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Unfit for human habitation means that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this Minimum Housing Ordinance.

- **Sec. 4-184. - Minimum standards of fitness for dwellings and dwelling units.**

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of section 4-185 - 4-189. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 4-185 - 4-189.

- **Sec. 4-185. - Minimum standards—Structural condition.**

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

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

(c) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged so as to dangerously reduce their intended load bearing characteristics.

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

(e) Adequate facilities for egress in case of fire or panic shall be provided.

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

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

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

(i) There shall be no use of the ground for floors, or wood floors on the ground.

- **Sec. 4-186. – Minimum Standards—Basic equipment and facilities.**

(a) *Plumbing system.* The following standards shall apply to plumbing systems:

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

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to an approved potable water supply.

(3) All plumbing fixtures shall be maintained in a state of good repair and in good working order.

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

(b) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either subsection (b)(1) or (2) of this section:

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 68 degrees Fahrenheit measured at a point three feet above the floor and two feet from exterior walls during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 68 degrees Fahrenheit measured three feet above the floor and two feet from exterior walls during ordinary winter conditions.

(c) *Electrical system.* The following standards shall apply to electrical systems:

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric

convenience receptacles, connected in such manner as determined by the National Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling, or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.

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

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, without hazard to property or person.

- **Sec. 4-187. – Minimum standards—Ventilation.**

(a) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors for adequate ventilation. At least one window in every habitable room shall be of such size and location to allow egress by an average adult in the event of fire or other emergency.

(b) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable 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 by the state residential code or other applicable sections of such code or shall have other approved equivalent ventilation.

(c) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system as required by the state residential code.

- **Sec. 4-188. – Minimum standards—Safe and sanitary maintenance.**

(a) *Exterior foundation, walls, and roofs.* All roofs, flashings, exterior walls, basement walls, foundation walls, floors, hatchways, windows and any other part of a dwelling exposed to weather shall be constructed and maintained so as to be waterproof and weather tight.

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

(c) *Windows and doors.* Every window, exterior door, basement or cellar door, and hatchway shall be substantially weather-tight, watertight, and rodent-proof; and shall be kept in sound working condition and good repair.

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

(e) *Bathroom floors, toilet, bath and shower spaces.* Bathtub and shower floors and walls above bathtubs with installed shower heads and in shower compartments shall be finished with a non-absorbent surface. Such non-absorbent surfaces must extend at least six feet above the floor. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition.

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

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

(h) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the current version of the state residential building code or the building code in effect at the time of construction, whichever is the least restrictive. All interior egress doors and a minimum of one exterior egress door shall be readily openable from the side from which egress is to be made without the use of a key or special knowledge or effort.

(i) *Smoke alarms.* Every dwelling and dwelling unit shall have smoke alarms installed and maintained according to the state residential building code.

- **Sec. 4-189. – Minimum standards—Control of insects, rodents and infestations.**

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

(b) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the

only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

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

(d) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an approved outside garbage can as required by city ordinances.

- **Sec. 4-190. - Responsibilities of owners and occupants.**

(a) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

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

(c) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

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

- **Sec. 4-191. - Enforcement.**

The provisions of the City of Boiling Spring Lakes' Minimum Housing Ordinance shall be enforced as provided in N.C. Gen. Stat. 160D-1203, as may be amended from time to time.

(a) *Designation of enforcement officer.* One or more public officers shall be designated to exercise the powers prescribed by the ordinance.

- (b) *Investigation, complaint, hearing.* Whenever a petition is filed with the public officer by a public authority or by at least five residents of the jurisdiction charging that any dwelling is unfit for human habitation or when it appears to the public officer that any dwelling is unfit for human habitation, the public officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the public officer, or the officer's designated agent, at a place within the county in which the property is located. The hearing shall be not less than 10 days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the public officer.
- (c) *Orders.* If, after notice and an administrative hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, the officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:
- 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, requiring the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation. The ordinance may fix a certain percentage of this value as being reasonable. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under subdivision (d) of this section.
 - 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, requiring the owner, within the time specified in the order, to remove or demolish the dwelling. The ordinance may fix a certain percentage of this value as being reasonable. However, notwithstanding any other provision of law, if the dwelling is located in a historic district and the Historic District Commission determines, after an administrative hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160D-949.
- (d) *Repair, closing, and posting.* If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and the public officer may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Minimum Housing Ordinance with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance.

This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

- (e) *Demolition.* – If the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Minimum Housing Ordinance with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.
- (f) *Abandonment of intent to repair.* If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subdivision (d) of this section or after a public officer issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subdivision, then the governing board may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing board may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:
 - a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.
 - b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

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

- (g) *Liens.*
 - a. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

- b. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.
 - c. If the dwelling is removed or demolished by the public officer, the local government shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.
- (h) *Civil action.* If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the local government to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. If the summons appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subdivision (e) of this section authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing board has ordered the public officer to proceed to exercise his duties under subdivisions (d) and (e) of this section to vacate and close or remove and demolish the dwelling.
- (i) *Additional notices to affordable housing organizations.* Whenever a determination is made pursuant to subdivision (c) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition.