

# GASTON COUNTY BOARD OF COMMISSIONERS BOARD ACTION

**REQUESTED ACTION:** Amendment to the 1998 Minimum Housing Ordinance

**Staff Contact:** Larry E. Hurlocker, Director, Planning Code Enforcement  
Danny Garrett, Code Enforcement Administrator

**BACKGROUND:** The County Commission on September 28, 2004 instructed staff to review the 1998 Minimum Housing Ordinance and to propose amendments to address recent neighborhood complaints and issues. Staff reviewed proposed amendments with the Commission during the October 12, 2004 Commission Work Session, and has modified the draft ordinance in line with Commission directions. The Commission setting October 28, 2004 as a public hearing date to have citizen input onto the proposed amendment. Said public hearing has been advertised in accordance with State and local guidelines for notification, and the draft has been placed on the County Web page for general public review. The Commission is requested to take citizen comment, consider the amendments to the Minimum Housing Ordinance and approved said amendments.

**Policy Impact:** Modifies existing Ordinance and strengthens standards

**FISCAL IMPACT ANALYSIS:** Amendment to the Ordinance will have no financial impact

Is Item Included in current budget?                      Yes\_\_\_\_                      No\_\_\_\_                      N/A\_X\_\_

Recommended sources of funds: (See attached Budget Change Request.)

Departmental Fiscal Review: \_\_\_\_\_

Budget Director Review: \_\_\_\_\_

Manager's Recommendation: \_\_\_\_\_

**ATTACHMENTS:** (Attach copy of draft ordinance.)



**RESOLUTION TITLE: Amendments to Minimum Housing Ordinance**

**Whereas,** In response to neighborhood and community complaints dealing with the Housing Stock of Gaston County, the County Commission on September 21, 2004 instructed staff to review the Minimum Housing Regulations in order to better respond to issues, and on October 12, 2004 staff reviewed proposed amendments with the Commission; and,

**Whereas,** The Commission set a public hearing on October 28, 2004 for citizen comment into proposed amendment, with said hearing being advertised in accordance with state and local guidelines for public notification; and,

**Whereas,** After review of recommendations from the Housing Appeals Board, and public hearing comment, the Commission is requested to amend the Gaston County Minimum Housing Ordinance as presented, effective upon approval.

**NOW, THEREFORE, BE IT ORDAINED** by the County Commission that the Minimum Housing Ordinance attached hereto shall become effective upon approval.

**BE IT FURTHER RESOLVED** that the County Manager is authorized to enforce said provisions of this ordinance and make necessary notifications in the matter.

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DO NOT WRITE BELOW THIS LINE

I, Martha M. Jordan, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

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A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS

**AN ORDINANCE ESTABLISHING MINIMUM HOUSING STANDARDS  
GASTON COUNTY, NORTH CAROLINA**

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AN ORDINANCE ESTABLISHING MINIMUM HOUSING STANDARDS  
GASTON COUNTY, NORTH CAROLINA

**SECTION I    PURPOSE**

Pursuant to G.S. 160A-441, the Gaston County Commission declares there exists in Gaston County dwellings which are unfit for human habitation. These conditions exist 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, unsanitary, dangerous, and detrimental to the health, safety, and welfare of the residents of Gaston County.

To address this charge, as authorized by Article 19, Chapter 160A of the General Statutes, it is the purpose of this 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. 160A-444.

**SECTION II    JURISDICTION**

These regulations shall govern all residential structures, as defined by the ordinance, within Gaston County within the jurisdiction of the County, as determined by the County Commission. However, this ordinance, through Interlocal agreements with municipalities, the County may enforce these regulations within municipal jurisdictions, provided that any such municipal governing body or the County, upon one (1) year written notice, may withdraw its approval of the Minimum Housing Standards and those regulations shall have no further effect within the municipality. The one (1) year time limit may be waived upon agreement of both parties.

**SECTION III    DEFINITIONS**

The Following definitions shall apply in the interpretation and enforcement of this ordinance:

**Appliance** shall mean that equipment used for cooking or heating which is hardwired or permanently installed to the dwelling and is considered as real property instead of personal property.

**Basement/Cellar** shall mean a portion of a dwelling which is located at least 50% underground, having direct access to light and air from windows above the level of the adjoining ground.

**Deteriorated** shall mean that dwelling may be unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this ordinance at a cost not in excess of fifty percent (50%) of its value, as determined by the findings of the Housing Inspector.

**Dilapidated** shall mean that a dwelling is unfit for human habitation and cannot be improved, repaired, or altered to comply with all of the minimum standards established by

this ordinance except at a cost in excess of fifty percent (50%) of its value, as determined by the findings of the Housing Inspector.

**Dwelling** shall mean any building, structure, or part thereof, which is wholly or partly used or intended to be used for living, sleeping, or habitation by human occupants. Temporary housing, as hereinafter defined, shall not be regarded as a dwelling. The term shall include within its meaning the terms rooming house and rooming unit, as hereinafter defined.

**Dwelling Unit** shall mean any room or group of rooms located within a dwelling forming a single habitable unit used or intended to be used for living, sleeping, or habitation by human occupants.

**Extermination** shall mean the control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination method approved by the Housing Inspector.

**Garbage** shall mean the waste resulting from the handling, preparation, cooking and consumption of food.

**Gender Words** having a masculine gender shall include the feminine and neuter gender.

**Habitable Room** shall mean 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, communicating corridors, closets, and storage spaces.

**Housing Board** shall mean Gaston County Housing Appeal Board as appointed by the County Commission.

**Housing Inspector** shall mean the Chief Building Inspector of Gaston County or any agent for the Housing Inspector approved by the County Manager.

**Infestation** shall mean 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 public.

**Lessee** shall mean any person or group of persons who, under agreement with the property owner, occupies a dwelling unit for the purposes of living, sleeping, cooking or eating.

**Multiple Dwellings** shall mean any dwelling containing more than two dwelling units, and shall include, but not limited to, duplexes, apartments, etc.

**Occupant** shall mean any person living, sleeping, cooking or eating in, or having actual possession of a dwelling, dwelling unit or rooming unit.

**Operator/Landlord** shall mean any person who has charge, care, or control of a building, or part thereof, in which dwelling units or rooming units are let.

**Owner** shall mean any person who alone, jointly, or severally with others:

- a. Shall have title to any dwellings, dwelling unit or rooming unit, with or without accompanying actual possession thereof, or
- b. Shall be a mortgagor of record for any dwelling, dwelling unit or rooming unit, or
- c. Shall have charge, care, or control of any dwelling, dwelling unit, or rooming unit, as owner, owner's agent, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

**Party or parties in interest** shall mean all persons who have interests of record in a dwelling, dwelling unit or rooming unit and persons who are in possession thereof; including, but not limited to the mortgagee.

**Person** shall mean any individual, corporation, firm, partnership, association, organization, or other legal entity.

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

**Public Authority** shall mean any officer who is in charge of any department or branch of the government of Gaston County or the State of North Carolina relating to health, fire, building regulations, or other activities concerning dwellings in Gaston County.

**Residential Structure** shall mean any structure or combination of structures used for human habitation, which shall include but not be limited to: conventional site-built homes, modular homes, manufactured homes, trailers. Travel trailers and campers shall not be considered mobile homes, unless located on a site for 180 consecutive days or longer and intended to be used as a permanent residence.

**Rooming House** shall mean 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 persons who are not husband, wife, son, daughter, mother, father, sister, or brother of the owner or operator.

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

**Rubbish** shall mean non-food waste materials. The term shall include items such as: paper, rags, cartons, boxes, wood, excelsior rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, and dust.

**Supplied** shall mean paid for, furnished, or provided by, or under the control of, the owner or operator.

**Supplied Facilities** shall mean the sink or water basin; toilet or water closet; tub and/or shower stall in a bathroom.

**Temporary Housing** shall mean 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 thirty consecutive days.

**Unfit for Human Habitation** shall mean that conditions exist in a dwelling, dwelling unit, rooming house, or rooming unit, which do not comply one or more of the requirements established by this ordinance.

**Words having certain meaning** Whenever the words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof."

**Working Day** Normal working hours and working days for the Gaston County Code Enforcement.

#### **SECTION IV MINIMUM STANDARDS OF FITNESS FOR DWELLINGS, DWELLING UNITS, AND MANUFACTURED HOMES**

Standards for dwellings, dwelling units, rooming units, and manufactured homes shall be:

1. Every dwelling, dwelling unit, and rooming unit used as a human habitation shall comply with the North Carolina State Building Codes, at the time of construction ,and with all standards of fitness for human habitation and the requirements as set forth in this ordinance.
2. No person shall occupy, let to another for occupancy, or use as a human habitation any dwelling, dwelling unit, or rooming unit which does not comply with the minimum standards of fitness of human habitation in this ordinance.
3. Every manufactured home used as a human habitation shall comply with all applicable codes , at the time of manufacture, and with all regulations promulgated by the NC State Building Code Council.

#### **SECTION V MINIMUM STANDARDS FOR STRUCTURAL CONDITION**

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

1. Walls, partitions or supporting members, sills, joists, rafters, or other structural members shall not list, lean, buckle, and shall not be rotten, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.
2. Floors or roofs shall have adequate supporting members and strength to be in a condition which would be structurally sound and safe for the purpose used.
3. Foundations, foundation walls, piers or other foundation supports shall be in a condition which would be structurally sound and safe for the purpose used.

4. Steps, stairs, landings, porches, decks, balconies, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse. Any stairs or steps having four (4) or more risers shall have a hand rail. Any decks, porches, landings or balconies thirty inches (30") or more above grade shall have a guard rail.
5. Adequate facilities for egress in case of fire or panic shall be provided.
6. Interior walls and ceilings of all rooms, closets, 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 occupants to maintain reasonable privacy between various spaces.
7. The roof, flashing, exterior walls, floors, doors and windows exposed to the weather shall be constructed and maintained so as to be weather tight and watertight.
8. There shall be no chimneys or part thereof which are defective, deteriorated, in danger of falling, or in such conditions or location as to constitute a fire hazard.
9. There shall be no use of the ground for floors, or wood floors on the ground.

## **SECTION VI        MINIMUM STANDARDS FOR BASIC PLUMBING, HEATING AND ELECTRICAL EQUIPMENT AND FACILITIES**

Standards for basic plumbing, heating and electrical equipment and facilities shall be:

### **1. Plumbing System**

- . Each dwelling unit shall be connected to a potable water supply, and to a public sewer or other approved sewage disposal systems. All said connections shall be constructed in an approved manner in accordance with existing Regulations.
- a. Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. Water heaters shall be capable of heating water to 120 degrees Fahrenheit. All water shall be supplied through an approved pipe distribution system, connected to a potable water supply.
- c. All existing plumbing fixtures, water lines and sewer lines shall meet the standards of the NC State Building Codes, at the time it was installed, and shall be maintained in a state of good repair and in good working order, adequately protected from freezing.
- d. All existing 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.

### **2. Heating System.**

- a. Central Heating Systems. Every central heating system shall have and maintain sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of sixty-eight (68) degrees Fahrenheit measured at a point three (3) feet above the floor during ordinary winter conditions.
- b. Other Heating Facilities. Where a central or electric heating system is not provided, each dwelling unit shall have adequate heating appliances installed and maintained in good and safe working condition and capable of safely and adequately heating all



habitable rooms, bathrooms and water closet compartments so as to furnish a minimum temperature of 68 degrees Fahrenheit measured at a point three feet above the floor during ordinary minimum winter conditions. In addition, each dwelling unit shall be provided with sufficient chimney, flues, gas vents and/or fireplaces in accordance with the provisions of the North Carolina State Building Codes. Portable heaters are not permitted as a primary source of heating. No unvented fossil fuel burning appliances shall be allowed in sleeping areas.

### 3. Electrical Systems.

- a. 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 receptacle in each room locate on separate walls, and also one electric light switched at each outside entrance, 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 (1) supplied ceiling or wall type electric light fixture, with a switch. Electrical outlets in dwellings which have been ordered by the Housing Inspector to be repaired shall conform with the minimum standards set forth in this ordinance. In bathrooms, water closet rooms, laundry rooms, furnace rooms and kitchens shall have GFCI protected outlets, installed to manufacturer's specifications.
- b. Every public hall and stairway in every multiple dwelling unit shall be adequately lighted by switched electric lights at all times when natural daylight is not sufficient.
- c. All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the National Electrical Code.

## SECTION VII. MINIMUM STANDARDS FOR VENTILATION

1. General Every habitable room shall have at least one window or skylight facing directly to the outdoors unless otherwise approved by the Housing Inspector.
2. Habitable Rooms. Every habitable room shall have at least one window or skylight which can easily be opened, or such other device, such as air conditioning, as will adequately ventilate the room, unless otherwise approved by the Housing Inspector.
3. Bathroom and Water Closet Rooms. Every bathroom and water closet room 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.

## SECTION VIII MINIMUM STANDARDS FOR SPACE, USE AND LOCATION

1. Room Size. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the NC State Building Code.
2. Cellar. No cellar shall be used for living purposes.
3. Basements. No basements shall be used for living purposes unless:
  - a. The floor and walls are substantially watertight;

- b. Every habitable room shall have at least one (1) window facing directly to the outdoors which can be easily opened. If other ventilation, approved by the Housing Inspector, is provided, then window(s) do not have to open. All areas used for sleeping purposes shall meet egress requirements of the NC State Building Codes, at time of construction.
- c. The window area of every habitable room shall be entirely above the grade except where the window or windows face a stairwell, window well or access way.

### SECTION IX. MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE

1. Exterior foundation, walls, and roofs. Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof; kept in sound and good repair; capable of supporting the load which normal use would cause to be placed thereon.
2. Interior floors, walls, and ceilings. Every floor, interior wall and ceiling shall be substantially rodent proof; kept in sound condition and good repair; and safe to use and capable of supporting load which normal use would cause to be placed thereon.
3. Windows and doors. Every window, exterior door, basement, cellar door, and hatchway shall be substantially weather tight, watertight, rodent proof and kept in sound working condition and good repair. All exterior doors shall have an apparatus for opening and closing the door on both sides, a locking mechanism, which can be opened from both sides of the door and kept in sound repair.
4. 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 would cause to be placed thereon, and kept in sound condition and good repair.
5. Bathroom floors and Walls: Every bathroom floor surface and water closet compartment floor surface and every tub and shower wall surface shall be constructed and maintained so to be substantially impervious to water and will permit such surface to be easily kept in a clean and sanitary condition.
6. Supplied Facilities: Every supplied facility or piece of equipment of utility shall be constructed or installed, so it will function safely and effectively and shall be maintained in satisfactory working condition.
7. Drainage: Every yard shall be properly graded in order to obtain thorough drainage away from the dwelling unit and to prevent the accumulation of stagnant water.
8. Egress. Every dwelling unit shall be provided with adequate and unobstructed means of egress (exit) as required by the NC State Building Code.
9. Tall Grass: All grass and noxious vegetation shall be maintained at a height not to exceed twelve (12) inches, with said grass height maintained to a distance of one hundred (100) feet from the residence or to the property line (if less than 100 feet). Agricultural land and lots without residential dwelling located on them are not subject to this section.

### SECTION X MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS AND INFESTATIONS

1. Screens. In every dwelling unit, for protection against mosquitoes, flies and other insects; every door opening and window or other device open to the outdoor space, used or intended for ventilation, shall be equipped with screens. Every dwelling unit which does not have an air conditioning system, shall have screens on every window opening intended to be used for ventilation.

2. 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 equipped with screens or such other approved device as will effectively prevent their entrance.
3. Infestation.
  - a. Owners who occupy single dwelling units shall be responsible for extermination of any insects, rodents or other pests within the premises.
  - b. All rental properties will be reasonably free of insect infestations at the time of tenancy change. The lessee shall have a period of five (5) days after occupancy to request an inspection for infestation. After five (5) days, the lessee shall be responsible to maintain the dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the lessee.
  - c. In cases of multiple dwelling units where infestation exists in two or more of said units or in the shared or public parts of any dwelling units, extermination shall be the responsibility of the owner.
4. Garbage and Rubbish Storage and Disposal
  - a. Property owners or tenant of single dwelling units shall be responsible for providing an approved container for outdoor storage of rubbish; and to provide an approved garbage disposal facility, as required by County Solid Waste Regulations.
  - b. It is the property owner's responsibility to provide for the removal and disposal of rubbish and garbage in an approved manner, except for those dwellings being leased to a second party, then the primary responsibility shall be placed on the occupant. Whenever the removal of rubbish and garbage is not carried out by the lessee, then the responsibility shall be the owner's.
  - c. In cases of multiple dwelling the responsibility of rubbish and garbage removal will be that of the owner.

#### **SECTION XI. MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES**

All minimum standards and requirements of this ordinance, shall be applicable to rooming houses, and to every person who operates a rooming house, who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following paragraphs.

1. Water Closet, Hand Lavatory and Bath Facilities. At least one (1) water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition shall be supplied for each four (4) rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall not be more that one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.
2. Minimum Floor Areas. Every room occupied for sleeping purposes by one (1) occupant shall have the minimum floor space as required by the State Residential Building Codes.
3. Sanitary Conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house. The operator shall be further responsible for the sanitary maintenance of the entire

premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

4. Sanitary Facilities. Every water closet, flush urinal, lavatory basin and bathtub or shower required by paragraph one (1) of this Section shall be located within the rooming house and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the rooming house or through any other room therein.

## SECTION XII RESPONSIBILITIES OF OWNER AND OCCUPANTS

### 1. Safety:

After an inspection of a dwelling in which any or all of the below emergency situations exist, the owner shall repair and correct any substandard item within four-eight (48) hours of the building being inspected and notification of violation being given:

- a. Repair any broken, burst, frozen or inoperable plumbing pipe or fixtures (water or sewer);
- b. Repair any exposed or unsafe electrical wiring;
- c. Repair or replace any unsafe and/or dangerous cooking appliances, provided by the owner;
- d. Repair, replace or install heating equipment;
- e. Repair or replace above ground fuel storage tanks and/or leaking, improperly supported or dangerous;

Upon discovery of any of the above emergency situations, the Housing Inspector shall provide notification to the owner of the dwelling to correct or repair the emergency situation, as listed above, within a forty-eight (48) hour period after notification of the violation. Notice of violation shall be in any two of the following forms:

- a. Posting of the dwelling, showing the emergency situation(s) to be corrected and specified time limit in which repairs are to be corrected.
- b. Notification of the owner by certified mail of the violation with the specified time period in which to have the problem corrected. Notification to the property owner shall be deemed to be twenty-four (24) hours after depositing the letter.
- c. Notification by telephone, fax or other method.

Should the emergency situation not be corrected by the owner within the forty-eight (48) hour period after notification, then the Housing Inspector shall take action to have the emergency situation corrected to bring the dwelling into compliance with this ordinance pursuant to 153A-140 or other appropriate remedy.

During periods of declared natural disasters, defined as hurricanes, tornados, floods, earthquakes, forest fires, and other similar acts of God, this provision shall be suspended.

2. Public Areas. Every owner of a dwelling containing two (2) 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.
3. Cleanliness. Every dwelling or dwelling unit shall be delivered in a clean and sanitary condition, and every occupant shall keep that part of the dwelling, dwelling unit and premises which he/she occupies and controls in a similar manner.
4. 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, within seven (7) days, placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

5. 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.
  
6. Care of Facilities, and Equipment and Structure. No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit. Willful destruction of the premises by the occupant shall be deemed legal grounds for eviction and other legal remedies.

### **SECTION XIII. SMOKE DETECTION SYSTEM**

All residential units, which have been ordered by the Housing Inspector to be repaired and to conform with the minimum standards set forth in this ordinance, shall have an automatic smoke detection systems installed to conform with the standards in the North Carolina Building Codes. This section shall not apply to residential units that are not under direct order of the Housing Inspector to be repaired.

### **SECTION XIV POWERS AND DUTIES OF THE HOUSING INSPECTOR**

The Chief Building Inspector of the Gaston County Code Enforcement is hereby designated as the Housing Inspector, the officer shall enforce the provisions of this ordinance and exercise the duties and powers herein prescribed. Duties and powers of the Housing Inspector are:

1. To investigate housing conditions; inspect dwellings and dwelling units located in the County; determine which dwellings and dwelling units are unfit for human habitation in violation of this ordinance; and carry out the objectives of this ordinance;
2. To take such action, together with other appropriate departments and agencies, public or private, as necessary to effect rehabilitation of housing which is deteriorated, and/or dilapidated and carry out the general spirit and purpose of this regulation;
3. To keep a record of the results of inspections made under this ordinance, including a list of all those dwellings inspected and not in compliance with the Housing Inspector's report;
4. To perform duties necessary and incidental to the fulfillment of the general spirit and purpose of these regulations;
5. To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with this Ordinance and State Law, and shall be made in such a manner as to cause the least possible inconvenience to the persons in possession;
6. To appoint and affix the duties of such officers, agents, and employees necessary to assist in carrying out the purposes of this ordinance, and to delegate any of his functions and powers to such officers, agents, and employees;
7. To administer oaths, affirmations, examine witnesses and receive evidence.
8. Notification of property owners by the Housing Inspector:

- a. Upon discovery of any emergency situations listed in Section XII of this ordinance, the Housing Inspector shall provide notification to the owner of the dwelling to correct or repair the emergency situation, as listed above, within a forty-eight (48) hour period after notification of the violation. Notice of violation shall be any two (2) of the following forms:
    1. Posting of the dwelling, showing the emergency situation(s) to be corrected and specified time limit in which repairs are to be corrected.
    2. Notification of the owner by certified mail of the violation with the specified time period in which to have the problem corrected. Notification to the property owner shall be deemed to be twenty-four (24) hours after depositing the letter.
    3. Notification by telephone, fax or other method.
  - b. Upon receipt of a complaint or request for inspection in non emergency situations, the Housing Inspector shall notify the property owner and/or tenant in the following manner:
    1. The Housing Inspector shall contact both the owner and the tenant advising that a complaint or report had been filed with the Housing Inspector;
    2. The Housing Inspector shall also advise that the dwelling will be inspected seven (7) days after the complaint is filed, if no earlier time is agreed upon, and advise that the owner may be present during the inspection. Also, that if the owner or tenant wishes to reschedule the inspection, they may negotiate a specific inspection time with the Housing Inspector.
    3. The Housing Inspector shall also notify the tenant of the specific date of the inspection, in a similar manner to the owner notification.
  - c. If the house to be inspected is owner occupied, then the Housing Inspector shall advise the owner, at the time of the seven (7) day notice, of their constitutional rights to refuse entry to the Housing Inspector.
9. To perform such other duties as may be prescribed herein or by the County Commission.

#### **SECTION XV ADMINISTRATION**

- A. Utilities. The County shall not provide, nor permit another to provide (either public or private) utility services such as water/sewer, electricity, well/septic tank, etc., to any substandard building or dwelling unit which is currently under inspection of the Housing Inspector until said dwelling is brought into compliance with this Code. This requirement shall not preclude the temporary use of such utility services as may be deemed necessary during construction, repair or alteration. The Chief Building Inspector shall be responsible for making the determination as to when such "temporary services" may be necessary.
- B. Permit. No building, plumbing, electrical, gas or other permit, as may be required, for an addition, alteration or repair of an existing substandard building or dwelling unit shall be issued until such time as an inspection of the property has been made to determine the feasibility of rehabilitation of such building or dwelling unit. If the determination is made that rehabilitation of such building or dwelling unit is feasible, any permits issued will in no way affect time limitations dictated by these regulations.
- C. Securing Dwelling Units Having No Occupancy. When an Order to renovate, repair or demolish a dwelling has been issued by the Housing Inspector, the property owner shall take steps to secure the building covering all points of ingress/egress and openings with material which is not easily penetrable (such as plywood or boards of sufficient width to with stand penetration or other similar materials.)

#### **SECTION XVI HOUSING APPEAL BOARD**

The Housing Appeal Board shall review all appeals from property owners relating to orders given by the Housing Inspector. The Housing Appeal Board shall consist of five (5) members to serve for three year staggered terms who shall be appointed by the County Commission. The composition of this Housing Board shall consist of members at large from the following: a member of a Housing Authority, a building contractor, an architect, a member of the Gaston County Board of Health, and a county citizen. Ex-officio members shall include the Director of the Gaston County Health Department or a designee, the Director of Human Relations, and other ex-officio members as the County Commissioners see fit to appoint from time to time. No member shall serve more than two (2) full consecutive terms. Any member who fails to attend at least seventy-five (75%) of the regular and special meetings and hearings held by the Board during any one (1) year period shall automatically be removed from said Board.

Vacancies resulting from a member's failure to attend the required number of meetings and hearings shall be filled by the same method as provided for appointments. The Board shall have the power to elect its own officers, to fix the time and places of its meetings, to adopt necessary rules of procedure, and to adopt other rules and regulations for the proper discharge of its duties. The Board shall perform the duties prescribed by Section XIX and shall keep an accurate record of all of its proceedings.

### **SECTION XVII INSPECTIONS; DUTIES OF OWNERS AND OCCUPANTS**

1. For the purposes of making inspections, the Housing Inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units, and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house, rooming unit, or person in charge thereof, will allow entry at all reasonable times for the purposes of such inspection, examination and survey. If the house to be inspected is owner occupied, then the Housing Inspector shall advise the owner, at the time of the seven (7) day notice, of their constitutional rights to refuse entry to the Housing Inspector.
2. Every occupant of a dwelling, dwelling unit, rooming house, or rooming unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations necessary to effect compliance with provisions of this ordinance or with any lawful order issued pursuant to the provisions of this ordinance.

### **SECTION XVIII PROCEDURE FOR ENFORCEMENT**

1. Whenever a petition is filed with the Housing Inspector charging that any dwelling is unfit for human habitation or whenever it appears to the Housing Inspector (on his own motion) that any dwelling is unfit for human habitation, the Housing Inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect, and:
  - a. containing a notice that a hearing will be held before the Housing Inspector (or his designated agent) at a place within the county in which the property is located and,
  - b. set not less than 10 days nor more than 30 days after the serving of the complaint;
  - c. that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and
  - d. that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Housing Inspector.

The Housing Inspector or duly appointed designee, who conducts the preliminary inspection of a petition, shall be the Inspector of record for the petition.

2. If after notice and hearing, the Housing Inspector determines that the dwelling under consideration is unfit

for human habitation, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order,

- a. If the repair, alteration or improvement of the dwelling can be made at less than 50% of the value as estimated by the Housing Inspector, the owner is required, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or
  - b. If the repair, alteration or improvement of the dwelling cannot be made at 50% or less of its value as estimated by the Housing Inspector, requiring the owner, within the time specified in the order, to remove or demolish such dwelling.
  - c. However, notwithstanding any other provision of law, if the dwelling is located in a historic district and the Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160A, Part 3C.
3. If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Housing Inspector may cause the dwelling to be repaired, altered or improved or to be vacated and closed; and the Housing Inspector 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.
4. If the owner fails to comply with an order to remove or demolish the dwelling, the Housing Inspector may cause such dwelling to be removed or demolished. The duties of the Housing Inspector set forth in subdivisions (3) and (4) shall not be exercised until the governing body shall have by ordinance ordered the Housing Inspector to proceed to effectuate the purpose of this ordinance with respect to the particular property or properties which the Housing Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. 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.
5. If the governing body has adopted an ordinance, or the Housing Inspector has:
- a. issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subsection (2)a, and
  - b. if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order;
  - c. then if the governing body shall find:
    1. 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
    2. 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.
  - d. then in such circumstances, the County Commission may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:



1. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling as estimated by the Housing Inspector, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or
  2. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling as estimated by the Housing Inspector, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.
- e. This ordinance shall be recorded with the Gaston County Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the Housing Inspector shall effectuate the purpose of the ordinance.
6. That the amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Housing Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in N.C. 160A Article 10. If the dwelling is removed or demolished by the Housing Inspector, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the Housing Inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the County to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.
  7. If any occupant fails to comply with an order to vacate a dwelling, the Housing Inspector may file a civil action in the name of the County to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed 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 Housing Inspector produces a certified copy of an ordinance adopted by the County Commission pursuant to subdivision (4) 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 County Commission ordered the Housing Inspector to proceed to exercise his duties under subdivisions (3) and (4) of this section to vacate and close or remove and demolish the dwelling.
  8. That whenever a determination is made pursuant to subdivision (2) 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 Housing Inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Housing Inspector or clerk shall certify the mailing of

the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Housing Inspector to wait 45 days before causing removal or demolition.

**SECTION XIX METHODS OF SERVICE OF COMPLAINTS AND ORDERS**

Complaints or orders issued by the Housing Inspector shall be served upon persons either personally or by 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 certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Housing Inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail, the Housing Inspector shall make an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in Gaston County at least once no later than the time at which personal service would be required under the ordinance. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

**SECTION XX APPEALS FROM ORDERS OF THE HOUSING INSPECTOR.**

An appeal from any decision or order of the Housing Inspector may be taken by any person aggrieved thereby. Any appeal from the Housing Inspector shall be taken within ten (10) days from the rendering of the decision or service of the order, by filing with the Housing Inspector and with the Housing Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Housing Inspector shall forthwith transmit to the Board all the papers constituting the record from which the appealed decision was made. When the appeal is from a decision of the Housing Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the Housing Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Housing Board, unless the Housing Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certification, (a copy of which shall be furnished the person who is appealing), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by restraining order, for due cause shown upon not less than one (1) day written notice to the Housing Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. 160A-446(5)

- a. The Housing Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all parties, and shall render its decision within a reasonable time. Any party may appear in person, by agent, or attorney. The Board may reverse or affirm, wholly, partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to this

end shall have all the powers of the Housing Inspector. The concurring vote of three members of the Board shall be necessary to reverse or modify any decision or order of the Housing Inspector. The Board shall have power also in passing upon appeals, in the case where there are practical difficulties or unnecessary hardships in a way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

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

Petition to Superior Court by Owner. Any person aggrieved by an order by the Housing Inspector or a decision rendered by the Housing Board shall have the right, within thirty (30) working days after issuance of the order or rendering of the decision, to petition the Superior Court for a injunction restraining the Housing Inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Housing Inspector pending a final disposition of the cause, as provided by G.S. 160A-446.

#### **SECTION XXI ALTERNATE REMEDIES**

Neither this ordinance nor any of its provisions shall be construed to impair or limit in any way the power of Gaston County to define and declare nuisances and to cause this ordinance by criminal process as authorized by G.S. 14-4 and Section XIII of this ordinance, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinance or laws. Pursuant to the NC General Statute 153A-123, a civil penalty may be imposed by the County Commission.

#### **SECTION XXII CONFLICT WITH OTHER PROVISIONS**

In the event any provision, standard, or requirement of this ordinance is found to be in conflict with any provision of any other ordinance or code of Gaston County, the provision which established the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of Gaston County shall prevail.

#### **SECTION XXIII VIOLATIONS; PENALTY**

1. It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove the same, or to vacate and close and remove or demolish and remove the same, upon order of the Housing Inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.
2. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to Section XVII of this ordinance, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or vacating the premises and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

3. The violation of any provision of any provision of this ordinance shall constitute a Class 3 misdemeanor, as provided by G.S. 14-4.
4. In addition to the penalty established by subsection (3) above, and the remedies provided by other provisions of this ordinance, this ordinance may be enforced by an appropriate equitable remedy issued by a court or competent jurisdiction.

**SECTION XXIV AMENDMENT PROCEDURE**

The County Commission may from time to time amend the terms of this ordinance, but no amendment shall become effective unless it shall have been proposed by or shall be submitted to the Housing Board for review and recommendation. The Housing Board shall have sixty (60) days from the time the proposed amendment is submitted within which to submit its report. If the Housing Board fails to submit a report within a specified time, it shall be deemed to have been recommended for approval. No amendment shall be adopted by the governing body until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the Gaston County area at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty five (25) nor less than fifteen (15) days prior to the hearing date. In computing the fifteen (15) --twenty-five (25) day period, the date of publication is not be counted, but the date of the hearing is.

**SECTION XXV SEVERABILITY**

If any provision of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, independent provision thereof, and to that end, the provisions of this ordinance are hereby declared to be severable.

**SECTION XXVI EFFECTIVE DATE**

This ordinance shall be effective upon adoption by the Gaston County Commission.

I, MARTHA M. JORDAN, Clerk to the Board of Commissioners of Gaston County, North Carolina, hereby certify that the foregoing is a true and correct copy of the MINIMUM HOUSING STANDARDS ORDINANCE, adopted by the County Commission at a regular meeting held on October 28, 2004

\_\_\_\_\_  
Martha M. Jordan, Clerk  
Gaston County Board of Commissioners

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