

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

Meeting Date: January 7, 2008

Subject: Draft Minimum Housing Code

Attachments: 1. Staff Memorandum
2. Draft Code
3. Powerpoint Presentation

SUMMARY OF REQUEST:

The County Comprehensive Plan and 2007 Strategic Plan (Strategy 3.2, Objectives A & B) identify the need to develop and implement a County Minimum Housing Code. The Planning Department, with the assistance of the County Attorney's Office, Code Enforcement Director, and the Fire Marshall's Office, has prepared the attached draft Minimum Housing Code. The Department took a comprehensive approach to preparing the Minimum Housing Code which included: reviewing existing codes, a comparison of other North Carolina local government minimum housing codes, and a review of recommendations by the International Code Council for minimum housing codes.

The draft code is based on standards recommended by the International Code Council, an agency which assists local governments with recommended minimum standards. Adoption of a minimum housing code is recommended as part of the Comprehensive Plan and Strategic Plan to promote safety, livability and aesthetic desirability.

BOARD ACTION REQUESTED:

Planning Staff requests the Board consider the draft code. The subject can be scheduled for a future meeting for further discussion or scheduling of a required public hearing if deemed appropriate. Staff requests feedback for possible changes to the draft code.

Suggested Motion:

I move the Board table the matter for a future meeting to allow Commissioners time to study the recommended draft.

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MEMORANDUM

TO: Board of Commissioners
Steve Wyatt, County Manager
Selena Coffey, Assistant County Manager

FROM: Anthony Starr, Planning Director
Hope Bleecker, Planner

DATE: January 2, 2008

SUBJECT: Draft Minimum Housing Code

The Planning Department, with the assistance of the County Attorney's office, Fire Marshal's office, and Code Enforcement Services Director has prepared the attached draft minimum housing code. This code sets and governs minimum standards for real property and promotes safety, livability and aesthetic desirability. The Department took a comprehensive approach to preparing the Minimum Housing Code which included: reviewing existing codes, comparing other North Carolina local government minimum housing codes, and reviewing recommendations by the International Code Council for minimum housing codes. The development and implementation of a County minimum housing code is a goal of the County Comprehensive Plan and 2007 Strategic Plan.

Background Information

Strategy 3.2 of the 2007-2011 Strategic Plan calls for the promotion of a diverse range of home ownership and rental opportunities in Henderson County. Two of the action steps identified within that strategy are to adopt (FY08) and enforce (FY09) a minimum housing code. The major goals of the proposed housing code are to: 1) protect the community from absentee property owners; 2) establish minimum standards that should be met in order to be fit for human occupancy and 3) remedy and prevent decay and deterioration of places where people live. Key objectives include prevention of unsanitary conditions, overcrowding, substandard living conditions, unsafe structures, and exposure to the elements. The code covers residential dwellings including single and multifamily structures, modular homes, and manufactured homes.

Analysis

The code addresses key building components such as lighting, ventilation, heating systems, plumbing, fire and safety, mechanical and electrical systems, as well as maximum occupancy and rubbish disposal. Some of the basic requirements for housing under the draft code include:

- All structures and exterior property shall be kept free from rodent harborage and infestation.
- Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.
- Windows and exterior siding and doors shall be kept weather resistant and water tight.
- Roofs shall be in a condition to not admit rain.
- Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition.
- All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.
- Water shall be free of contamination and hot water shall be provided.
- All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.
- Dwellings shall be provided with heating and/or cooling facilities capable of maintaining a room temperature of 68°F (20°C) during the heating season and/or 80°F (27°C) during the cooling season in all habitable rooms.

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- Dwellings shall be served with a minimum electrical service (120/240 volt, 60 amperes).
 - All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.
 - Smoke alarms are required for every home not just rental homes.

A key point should be made that condemnation does not mean demolition. Condemnation would only come if the code official determines the house is unsafe for occupation and the owner has not made the required repairs. Condemnation only means the structure cannot be occupied or used until it is put back into a safe status. The house may be repaired and re-occupied if the required repairs are made. Condemnation is not a common occurrence for established minimum housing programs.

These standards reflected in the draft code are consistent with the minimum standards used by local governments across the state. The language used comes from the International Code Council (ICC). The ICC is an organization that provides us with the N.C. State Building, Electrical, Mechanical, Plumbing and Fire Prevention Codes. They also produce the most commonly used minimum housing code. The City of Hendersonville also uses the ICC housing code. While the standards in this draft code would have a positive aesthetic impact in some cases, the primary purpose is to ensure safe and sanitary housing.

Enforcement

The Code Enforcement Services Department would administer the ordinance, investigate complaints and work with residents/owners to mitigate issues. The code provides definition for structural repairs or condemnation and safeguards the property owner with sufficient timeframes to work with the code official to properly fix problems. The draft code also includes a procedure for appealing staff decisions to the Board of Adjustment. If adopted, a grace period for compliance could be provided as was done with the Nuisance Ordinance. It is expected that enforcement would be complaint driven.

Financial Impact

Code Enforcement Services would need an additional full-time employee to administer this ordinance. This position will be Grade 71 and include a starting salary of \$31,000. The insurance and benefits for this position will equal about \$12,221. The position will require approximately \$23,500 for an additional patrol vehicle and office computer. Inclusion of a nominal salary increase for performance management will equal a total financial impact of \$67,720 for the first year.

Recommendation

The Planning Department recommends that the Board of Commissioners consider the draft code and provide direction as to whether Staff should proceed. If the Board is generally comfortable with the draft code, a public hearing could be scheduled.

DRAFT

HENDERSON COUNTY MINIMUM HOUSING CODE

December 10, 2007

CHAPTER 120 MINIMUM HOUSING CODE

ARTICLE 1 ADMINISTRATION

SECTION 120-1 GENERAL

A. Title. These regulations shall be known as the Henderson County Minimum Housing Code, hereinafter referred to as "this code."

B. Purpose. The purpose of this code is to remedy and prevent the decay and deterioration of places of human habitation by providing minimum requirements for the protections of the life, health, welfare, safety, and property of the general public and the owners and occupants of places of human habitation.

C. Scope. The provisions of this code shall apply to all existing dwellings and constitute minimum requirements and standards for: premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation; protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance. The provisions shall also constitute minimum requirements and standards for the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties. Demountable units such as manufactured homes shall be subject to the North Carolina Regulations for Manufactured Homes and other applicable provisions of this Code.

D. Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the North Carolina Building Code.

E. Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

ARTICLE 120-2 APPLICABILITY

A. General. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 120-1. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

B. Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

C. Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the North Carolina Building Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Henderson County Land Development Code, Nuisance Ordinance, and Solid Waste Ordinance.

D. Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.

E. Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

F. Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

G. Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Article 8 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

H. Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official responsible for administration and enforcement of the State Building Code.

SECTION 120-3 CODE ENFORCEMENT

A. Liability. Liability on the part of, or a cause of action against, Henderson County or any officer, employee or agent thereof for any damages that may result from administration and enforcement of this Ordinance shall be limited as provided by North Carolina Statutes 153A-132.

B. Fees. The fees for activities and services performed by carrying out its responsibilities under this code shall be as defined by the Henderson County Board of Commissioners.

SECTION 120-4 DUTIES AND POWERS OF THE CODE OFFICIAL

A. General. The code official responsible for enforcement of this code and/or their designees shall enforce the provisions of this code.

B. Interpretation of code. The code official shall have authority as necessary in the interest of public health, safety and general welfare, to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, the North Carolina Building Code, or of violating accepted engineering methods involving public safety.

C. Inspections. The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

D. Right of entry. The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law including an administrative warrant.

E. Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

F. Notices and orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.

G. Department records. The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be maintained in accordance with State regulations regarding the retention of records.

H. Coordination of inspections. Whenever in the enforcement of this code or another code or ordinance, the responsibility of more than one code official of the jurisdiction is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever a code official from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the code official's authority to enforce, the code official shall report

the findings to the code official having jurisdiction.

SECTION 120-5 APPROVAL

A. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases, provided the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

B. Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

C. Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

D. Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

E. Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.

F. Material and equipment reuse. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

SECTION 120-6 VIOLATIONS AND PENALTIES

A. Unlawful acts. Any person who violates this code, or who permits a violation to exist on the premises under his/her control, or fails to take action to abate the existence of the violation(s) within a specified time frame, when ordered or notified to do so by the code official, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by law.

B. Notice of violation. The code official shall serve a notice of violation and/or compliance order in accordance with Section 120-7.

C. Violation penalties. Violations of this code shall be prosecuted under Henderson County Code Chapter I, Article II, § 1-14 Violations and Penalties. Each day of violation constitutes a separate offense.

D. Civil Remedies. In the event of a violation or threat of violation of this Ordinance, the code official, through the County Attorney may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct, or abate such violations or threatened violations. The code official, through the County Attorney, enforcing provisions of this code may seek costs and expenditures, including staff time and attorneys' fees. An action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

E. Abatement of violation. The imposition of the penalties herein prescribed shall not preclude

the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

SECTION 120-7 NOTICES AND ORDERS

A. Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 120-7.B. and 120-7.C to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 120-8.C.

B. Public Notification. The code official shall provide information in writing about the housing violation and potential hazard to the following persons as applicable and appropriate:

- (1) Child Protection Division in situations of potential child abuse or endangerment,
- (2) Adult Protection Division in situations of potential vulnerable adult abuse or endangerment,
- (3) Neighbors in close proximity likely to be affected by the conditions found at the site,
- (4) Local Law Enforcement Officer, or
- (5) Other state or local authorities that may have public or environmental protection responsibilities.

C. Form. Such notice prescribed in Section 120-7.A. shall be in accordance with all of the following:

- (1) Be in writing.
- (2) Include a description of the real estate sufficient for identification.
- (3) Include a statement of the violation or violations and why the notice is being issued.
- (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code. Inform the property owner of the right to appeal.
- (5) Include a statement of the right to file a lien in accordance with Section 120-6.C.

D. Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally;
- (2) Sent by certified or first-class mail addressed to the last known address; or
- (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

E. Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 120-6.C.

F. Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

G. Duties of Tenants and Owners. This Code is not intended to interfere with or abolish the duties imposed on tenants and owners of rental property by North Carolina General Statutes, Article 42-43, or with lawful written agreements between property owners and tenants.

SECTION 120-8 UNSAFE STRUCTURES AND EQUIPMENT

A. General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

(1) Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(2) Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator (apartments), moving stairway (apartments), electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

(3) Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, because the location of the structure constitutes a hazard to the occupants of the structure or to the public or if it appears to the code official to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

(4) Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

B. Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to attract a public nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

C. Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place outside of the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 120-7.C. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 120-7.C

D. Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

(1) Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

E. Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premise or operate placarded equipment shall

be liable for the penalties provided by this code.

SECTION 120-9 EMERGENCY MEASURES

A. Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

B. Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

C. Closing streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

D. Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

E. Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

F. Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Board of Adjustment, be afforded a hearing as described in this code.

SECTION 120-10 DEMOLITION

A. General. The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than six months, to demolish and remove such structure. The structure shall be deemed irreparable if the cost of repairs exceeds fifty percent of the fair market value of the structure.

B. Notices and orders. All notices and orders shall comply with Section 120-7.

C. Failure to comply. If the owner of a premise fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

D. Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net

proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 120-11 MEANS OF APPEAL

A. Right of Appeal. Any person directly affected by a decision of the code official shall have the right to appeal by filing a written request with the Henderson County Board of Adjustment for an administrative hearing within ten calendar days after the decision, notice or order was served. In the event of an unknown or absent property owner, the appeal must be requested within ten calendar days of the day of posting of the notice under Section 120-7.

B. Hearing. If any owner or occupant makes a written request to the Board of Adjustment for hearing, such hearing shall be held in a quasi-judicial procedure before the Board of Adjustment. A 4/5 vote of the Board is required to overturn the decision of a code official.

C. Schedule. The hearing shall be held at the next available meeting after the request for a hearing was received.

D. Notice. The Department shall mail a notice to the appealing party of the time and place of the hearing at least ten calendar days prior to the hearing.

E. Witnesses and Evidence. All parties shall have full opportunity to respond to and present evidence and witnesses.

F. Standard of Proof. The appellant shall have the burden of proving its position by clear and convincing evidence.

G. Rules of Evidence. Hearings shall be informal and the rules of evidence as applied in the courts shall not apply. Irrelevant, immaterial and repetitious evidence shall be excluded.

H. Record of Hearing. The hearing shall be recorded and the minutes of the meeting shall be approved by the Board of Adjustment at their next scheduled meeting.

I. Notice of Decision. The written decision of the Board of Adjustment shall be issued within 45 calendar days following the hearing. Unless otherwise provided by law, the decision of the Board of Adjustment shall constitute the final decision.

J. Further Appellate Rights. Any party aggrieved by a final decision is entitled to judicial review of the decision. A petition for a writ of certiorari by the party must be filed with the Court of Appeals not more than thirty calendar days after the party receives the written decision from the Board of Adjustment.

ARTICLE 2 DEFINITIONS

SECTION 120-21 GENERAL

A. Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this section.

B. Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

C. Terms defined in other codes. Where terms are not defined in this code and are defined in the North Carolina Building Code, North Carolina Fire Prevention Code, Henderson County Land Development Code, North Carolina Plumbing Code, North Carolina Mechanical Code, North Carolina Existing Building Code or the North Carolina Electrical Code, such terms shall have the meanings ascribed to them as in those codes.

D. Terms not defined. Where terms are not defined through the methods authorized by this

Article, such terms shall have ordinarily accepted meanings such as the context implies.

E. Parts. Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” “rooming house,” “rooming unit” “housekeeping unit” or “story” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

SECTION 120-22 DEFINITIONS

APPELLANT. One who appeals a judicial decision.

APPROVED. Approved refers to approval by the code official as the result of investigation and tests conducted by him or her, and/or by reason of accepted principles or tests by nationally recognized organizations.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM GROUP. A group of fixtures, including or excluding a bidet, consisting of a water closet, lavatory, and bathtub or shower. Such fixtures are located on the same floor level.

BEDROOM. Any room or space used or intended to be used for sleeping purposes.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To judge unfit for occupancy.

COURT. A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building.

DEAD LOAD. The weight of materials of construction incorporated into the building, including but not limited to walls, floors, ceilings, stairways, built-in partitions, finishes, cladding, and other similarly incorporated architectural and structural items, and fixed service equipment.

DEPARTMENT. The department responsible for the administration and enforcement of this code.

DETERRIORATED. A dwelling unit that is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this Chapter, at a cost not in excess of fifty percent (50%) of its value, as determined by the findings of the code official.

DELAPIDATED. A dwelling unit that is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this Chapter, at a cost of more than fifty percent (50%) of its value, as determined by the findings of the code official.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be

for use under, on or above a said lot or lots.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible, materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

GARBAGE. All putrescible waste, including animal offal and carcasses, excluding sewage and human waste.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

LIVE LOAD. Those loads produced by the use and occupancy of the building or other structure and do not include construction or environmental loads such as wind load, snow load, rain load, earthquake load, flood load or dead load.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPERABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC NUISANCE. Any activity or failure to act that adversely affects the public and shall include, but is not limited to, any condition which poses an immediate and direct hazard to human health if left unheeded due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals, or other means of transmission or infections.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use and that has a clear width and height of not less than ten feet.

PUTRESCIBLE. Solid waste capable of being decomposed by microorganisms including, but not limited, to kitchen waste.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

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

RUBBISH. Solid or liquid waste from residences.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room including or excluding a bidet and or urinal, containing a water closet, lavatory but not a bathtub or shower.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this code, on the lot on which a building is situated.

ARTICLE 3 GENERAL REQUIREMENTS

SECTION 120-31 GENERAL

A. Scope. The provisions of this section shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

B. Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this section. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

C. Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 120-32 EXTERIOR PROPERTY AREAS

A. Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property, which such occupant occupies, or controls in a clean and sanitary condition.

B. Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. There shall be a positive drainage away from the foundation wall.

Exception: Approved retention areas and reservoirs.

C. Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

D. Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

E. Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

F. Accessory structures. All accessory structures used for habitation, including detached garages, sheds, workshops, shall be maintained structurally sound and in good repair.

G. Motor vehicles. Except as provided in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled without a Vehicle Restoration Permit pursuant to the Henderson County Land Development Code

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

H. Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

SECTION 120-33 PRIVATE SWIMMING POOLS

A. Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. If use is discontinued the pool should be properly secured.

B. Enclosures. Private swimming pools, containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier at least 48 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate at least 3 inches below the top of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

SECTION 120-34 EXTERIOR STRUCTURE

A. General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

B. Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good, safe condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

C. Premises identification. A *sign* indicating the address of a property shall be provided as required by Article 142 of the Henderson County Code, *Property Addressing*.

D. Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

E. Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of water, rodents and other pests.

F. Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

G. Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that

admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.

H. Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

I. Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

J. Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

K. Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

L. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

M. Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

(1) **Glazing.** All glazing materials shall be maintained free from cracks and holes.

(2) **Operable windows.** Every window, other than a permanently sealed window, shall be easily operable, without the use of keys or tools, and capable of being held in position by window hardware.

N. Screens. In order to provide for safe ventilation and provide for the safety of children, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

Exception: Screens shall not be required, where other approved means, such as air curtains or insect repellent fans, or closed climate control systems are employed.

O. Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 120-72.

P. Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

Q. Guards for basement windows. Every basement window that is operable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

R. Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

(1) **Doors.** Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock meeting specifications set forth herein. Such deadbolt locks have a lock throw of not less than 1-inch. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock. Such deadbolt locks shall be installed according to manufacturer's specifications and maintained in good working order. All deadbolt locks required by this section shall be designed and installed in such a manner so as to be operable inside of the dwelling unit, rooming unit or housekeeping unit without the use of a key, tool, combination thereof or any other special knowledge or effort.

(2) Windows. Operable windows located in whole or in part within 6 feet above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking devices.

(3) Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

SECTION 120-35 INTERIOR STRUCTURE

A. General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a dormitory, or two or more dwelling units, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

Conditions in the structure shall be maintained to prevent the growth of mold. Situations which cause mold should be addressed immediately.

B. Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

C. Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

D. Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

E. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

F. Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 120-36 HANDRAILS AND GUARDRAILS

A. General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches above the floor or grade below shall have guards. Handrails shall not be less than 30 inches high or more than 38 inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 36 inches high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface. Horizontal spacing between vertical members in required guardrails shall be a maximum of 4 inches at the nearest point between members.

Exception: Guards shall not be required where exempted by the adopted building code.

SECTION 120-37 RUBBISH AND GARBAGE

A. Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

(1) Storage of rubbish. Rubbish may be stored as in 120-37.B.(1) but shall be stored in such a manner that it will not provide harborage to rats, cause a fire or safety hazard or become windblown.

B. Disposal of garbage. Every occupant of a structure shall dispose of all garbage in a clean

and sanitary manner by placing it in approved containers.

- (1) Garbage storage facilities.** The owner of every occupied premise shall supply approved covered containers for garbage, and the owner of the premises shall be responsible for the removal of garbage.
- (2) Refrigerators.** Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.
- (3) Containers.** The owner of every structure shall be required to provide garbage containers of sufficient size and quantity which are durable, rust resistant, nonabsorbent, watertight and easily cleaned, with a close fitting cover. Containers are to be kept clean so that no insect breeding, odor or other nuisance will exist.
- (4) Frequency of removal.** All garbage shall be removed from any property upon which it is stored at least once per week.

SECTION 120-38 EXTERMINATION

A. Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

B. Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

C. Single occupant. The occupant of a one-family dwelling or of a single-tenant structure shall be responsible for extermination on the premises.

D. Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, townhouse, a rooming house or a structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.

E. Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

ARTICLE 4 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

SECTION 120-41 GENERAL

A. Scope. The provisions of this section shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

B. Responsibility. The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this section.

C. Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the North Carolina Building Code shall be permitted.

SECTION 120-42 LIGHT

A. Habitable spaces. Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a

structure face a window of any room and such obstructions are located less than 3 feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet. The exterior glazing area shall be based on the total floor area being served.

B. Common halls and stairways. Every common hall, ingress, egress and stairway in residential occupancies, other than in one-and two-family dwellings, shall be lighted at all times with at least a 60 watt standard incandescent light bulb provided that the spacing between lights shall not be greater than 30 feet.

C. Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

SECTION 120-43 VENTILATION

A. Habitable spaces. Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 120-42.A. At least one window in every habitable room shall be of such size and location as to allow egress by an average sized adult in the event of fire for other emergency.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet. The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

B. Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 120-43.A. except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge directly to the outdoors and shall not be recirculated.

C. Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit.

Exception: Where specifically approved in writing by the code official.

D. Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted directly to the exterior and not be recirculated to any space.

E. Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted directly to the outside in accordance with the manufacturer's instructions.

SECTION 120-44 OCCUPANCY LIMITATIONS

A. Privacy. Dwelling units, housekeeping units, and rooming units shall be arranged to provide privacy and be separate from other adjoining spaces.

B. Minimum room widths. A habitable room, other than a kitchen, shall not be less than 7 feet in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet between counter fronts and appliances or counter fronts and walls.

C. Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet.

Exceptions:

- (1) In one-and two-family dwellings, beams or girders spaced not less than 4 feet on center and projecting not more than 6 inches below the required ceiling height.
- (2) Basement rooms in one-and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches with not less than 6 feet 4 inches of clear height under beams, girders, ducts and similar obstructions.
- (3) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet over not less than one-half of the required minimum floor area. No portion of the room measuring less than five feet from the finished floor to the finished ceiling shall be included in any computation of the minimum room area.

D. Bedroom requirements. Every bedroom shall comply with the requirements of Sections 120-44D.(1) through 120-44D. (5)

- (1) **Area for sleeping purposes.** Every bedroom occupied by one person shall contain at least 70 square feet of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each occupant thereof.
- (2) **Access from bedrooms.** Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

- (3) **Water closet accessibility.** Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.
- (4) **Prohibited occupancy.** Kitchens and nonhabitable spaces shall not be used for sleeping purposes.
- (5) **Other requirements.** Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this section; the plumbing facilities and water-heating facilities requirements of Article 5; the heating facilities and electrical receptacle requirements of Article 6; and the smoke detector and emergency escape requirements of Article 7.

E. Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor area per additional occupant. The floor area shall be calculated on the basis on the total area of all habitable rooms.

- (1) **Sleeping area.** In every dwelling, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.

F. Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements

- (1) A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet. A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet. These required areas shall be exclusive of the areas required by 120-44.C.(2) AND (3)
- (2) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.
- (3) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(4) The maximum number of occupants shall be three.

G. Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

ARTICLE 5 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

SECTION 120-51 GENERAL

A. Scope. The provisions of this section shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

B. Responsibility. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this section.

SECTION 120-52 REQUIRED FACILITIES

A. Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

B. Rooming houses. At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

SECTION 120-53 TOILET ROOMS

A. Privacy Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

B. Location. Toilet rooms and bathrooms serving rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

C. Floor surface. In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

D. Wall surface. In bathtub and shower compartments, walls shall be finished with a nonabsorbent surface. Such wall surfaces shall extend to a height of not less than 6 feet above the floor.

SECTION 120-54 PLUMBING SYSTEMS AND FIXTURES

A. General. All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

B. Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

C. Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back-flow, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

SECTION 120-55 WATER SYSTEM

A. General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the North Carolina Plumbing Code.

B. Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

C. Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

D. Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of hot water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

SECTION 120-56 SANITARY DRAINAGE SYSTEM

A. General. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system. Septic systems should be properly maintained so as not to cause failure.

B. Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

SECTION 120-57 STORM DRAINAGE

A. General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

ARTICLE 6 MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 120-61 GENERAL

A. Scope. The provisions of this section shall govern the minimum mechanical and electrical facilities and equipment to be provided.

B. Responsibility. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this section.

SECTION 120-62 HEATING FACILITIES

A. Facilities required. Heating facilities shall be provided in structures as required by this section.

B. Residential occupancies. Dwellings shall be provided with heating and/or cooling facilities capable of maintaining a room temperature of 68°F (20°C) during the heating season and/or 80°F (27°C) during the cooling season in all habitable rooms as per the North Carolina Building Code. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

C. Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms.

Exceptions: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.

D. Occupiable common areas. Indoor common areas spaces shall be supplied with heat to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

- (1) Processing, storage and operation areas that require cooling or special temperature conditions.
- (2) Areas in which persons are primarily engaged in vigorous physical activities.

E. Room temperature measurement. The required room temperatures shall be measured 3 feet above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

SECTION 120-63 MECHANICAL EQUIPMENT

A. Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

B. Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

Exception: Fuel-burning equipment and appliances which are labeled for unvented operation.

- (1) Unvented fuel-burning equipment shall not be installed in any bedroom or room used for sleeping purposes.

C. Clearances. All required clearances to combustible materials shall be maintained.

D. Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

E. Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

F. Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

SECTION 120-64 ELECTRICAL FACILITIES

A. Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 120-65.

B. Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the North Carolina Electrical

Code. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

C. Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

SECTION 120-65 ELECTRICAL EQUIPMENT

A. Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

B. Receptacles. Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one single grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

C. Lighting fixtures. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric lighting fixture.

SECTION 120-66 ELEVATORS, ESCALATORS AND DUMBWAITERS

A. General. Elevators, dumbwaiters and escalators shall be maintained to sustain safely all imposed loads, to operate properly, and to be free from physical and fire hazards. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter; or the certificate shall be available for public inspection in the office of the building operator.

B. Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

SECTION 120-67 DUCT SYSTEMS

A. General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

ARTICLE 7 FIRE SAFETY REQUIREMENTS

SECTION 120-71 GENERAL

A. Scope. The provisions of this section shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

B. Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this section.

SECTION 120-72 MEANS OF EGRESS

A. General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure outside to the public way. Means of egress shall comply with the North

Carolina Fire Prevention Code.

B. Aisles. The required width of aisles in accordance with the North Carolina Fire Prevention Code shall be unobstructed.

C. Locked doors. All means of egress doors shall be readily operable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the North Carolina Building Code.

D. Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following.

Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

SECTION 120-73 FIRE-RESISTANCE RATINGS

A. Fire-resistance-rated assemblies. The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

B. Opening protectives. Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

SECTION 120-74 FIRE PROTECTION SYSTEMS

A. General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the North Carolina Fire Prevention Code.

B. Smoke Alarms. Single and multiple-station smoke alarms shall be installed and maintained in the following locations:

- (1) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
- (2) In each room used for sleeping purposes.
- (3) In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

C. Power source. Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

D. Interconnection. Where more than one smoke alarm is required to be installed, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

ARTICLE 8 REFERENCED STANDARDS

This section lists the standards that are referenced in various sections of this document. The application of the referenced standards shall be as specified in Section 120-2G.

Referenced in Code Section number	Title
120-21,120-64	North Carolina Electrical Code
120-2, 120-21,120-62, 120-72	North Carolina Building Code
120-21,120-72,120-74	North Carolina Fire Prevention Code
120-21	North Carolina Mechanical Code
120-21,120-55	North Carolina Plumbing Code
120-6,120-34	Henderson County Code
120-2	Henderson County Nuisance Ordinance
120-2, 120-21,120-32	Henderson County Land Development Code
120-1	North Carolina Regulations for Manufactured Homes
120-2	Henderson County Solid Waste Ordinance
120-3	North Carolina Statute 153A-132
120-7	North Carolina General Statute Article 42-53

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Henderson County Draft Minimum Housing Code

Henderson County Planning Department

All photographs in this presentation were taken in Henderson County.

What is a Minimum Housing Code?

- protect a community from absentee property owners
- establish some minimum standards a dwelling must meet in order to be fit for human occupancy (*habitable*)
- to remedy and **prevent the decay** and **deterioration** of places where people live
- This draft code is based on the model ordinance from the ICC who writes our State Building Code

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2

What determines “unfit for human occupancy” (uninhabitable)?

- the degree to which the structure is in disrepair
- unsafe, unlawful
- unsanitary, contains filth or contamination, rat infested
- lacks sanitary or heating facilities

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3

What does a minimum housing code do?



■ protects those who cannot protect themselves

■ ensures that structures are safe, sanitary and fit for occupancy

- makes the owner of a structure responsible for its maintenance

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4

Unsanitary Conditions



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5

Overcrowding



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6

Substandard Living Conditions



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7

Unsafe Structures



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8

Exposure to the elements



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9

What dwellings does it cover?

- residential structures
 - single and multi-family stick-built
 - Modular homes
 - manufactured homes

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10

What parts of a dwelling are covered?

- lighting
- ventilation
- heating systems
- plumbing
- fire/safety
- mechanical/electrical systems
- maximum occupancy

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11

What are the minimum standards?

The code requires that a house

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12

Have adequate plumbing facilities



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13

Be structurally sound



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14

Be free from fire hazards



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15

And be free from safety hazards



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16

Affords the occupants with reasonable security for their persons and possessions



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17

Be capable of maintaining indoor temperature



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18

Be free from unsanitary conditions



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19



Condemnation

- **NO** residents are removed from their houses onto the streets overnight
- One individual cannot condemn a dwelling
- Owner/tenant can appeal to the Board of Adjustment

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21









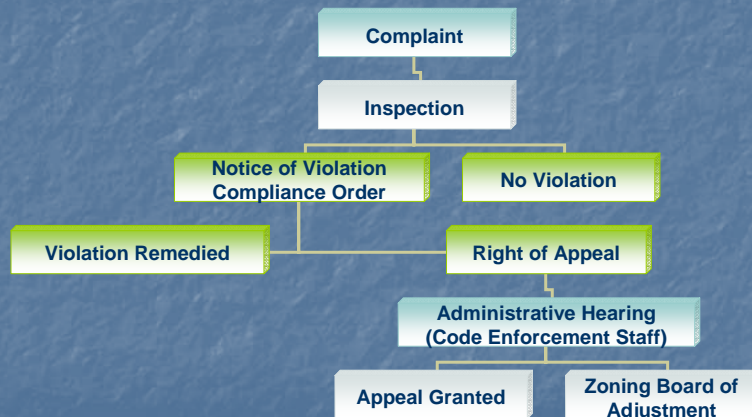
Who would administer it and how will it be enforced?

- "complaint driven"
- Zoning officials/building inspectors/other county employees can also report possible violations
- Code Enforcement Services Department would administer the program
- First year cost of about \$67,720 (Personnel, Equipment and Vehicle)

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28

How are violations handled?



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29

Draft Minimum Housing Code

- Questions?

12/19/2007

30