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Gaston, NC
Susan S. Lockridge Register of Deeds
BK 5046 PG 1163-1181

RESOLUTION TITLE: TO MODIFY CHAPTER 4, ARTICLE VI OF THE GASTON COUNTY CODE OF ORDINANCES CONCERNING MINIMUM HOUSING STANDARDS

- WHEREAS, Chapter 4 of the Gaston County Code of Ordinances concerns Buildings, Construction, and Related Activities; and,
- WHEREAS, there exists ordinances concerning Minimum Housing Standards as established in Article VI of Chapter 4 of the Gaston County Code of Ordinances; and,
- WHEREAS, the main changes between the current ordinance and the proposed ordinance include the following: a) clarifying the role of the Housing Inspector; b) clarifying the role and composition of the Housing Appeal Board; c) state with greater specificity what constitutes a violation of the minimum housing code; d) changing the sequence of the ordinances make it more readable; and,
- WHEREAS, the purpose of these ordinances is to establish the minimum standards of fitness for the initial and continued occupancy of buildings used for human habitation.

NOW, THEREFORE, BE IT RESOLVED that the Gaston County Board of Commissioners hereby repeals the Article VI of Chapter 4 of the Gaston County Code of Ordinances and replace with the ordinance as set forth as attached and as filed with the Clerk to the Board.

This ordinance, as filed with the Clerk to the Board, shall be effective immediately upon its adoption.

Return To:
Donna S. Buff
Clerk to the Board

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, 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:

NO.	DATE	M1	M2	CBrown	JBrown	AFrale	BHovis	TKeigher	JPhilbeck	RWorley	Vote
2019-129	05/28/2019	CB	JB	A	A	A	A	A	A	A	U

DISTRIBUTION:

Laserfiche Users

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

Sec. 4-121. Purpose; Responsibility of owner and occupants.

Pursuant to North Carolina General Statute 160A-441, the Gaston County Board of Commissioners, also referred to in this ordinance as Board of Commissioners, 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. This ordinance is not intended to abrogate or limit any other source of authority Gaston County has concerning housing standards or building inspection, including those provisions found in Article 18, Chapter 153A of the General Statutes.

It shall be the responsibility of the owner or contractor to obtain proper building permits and comply with North Carolina State licensing laws and regulations.

Sec. 4-122. Jurisdiction.

These regulations shall govern all residential structures, as defined by the ordinance, within the jurisdiction of Gaston County, as determined by the Board of Commissioners. However, the County may enforce these regulations within municipal jurisdictions through interlocal agreements, 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.

Sec. 4-123. Definitions and terms of construction.

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 tax 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 tax 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, connecting corridors, closets, and storage spaces.

Housing Board shall mean the Gaston County Housing Board as appointed by the Gaston County Board of Commissioners. Members of the Housing Board shall be composed of members of the Gaston County Zoning Board of Adjustment.

Housing Inspector shall mean the Director of Building Inspections of Gaston County or any agent approved by the Director of Building Inspections of Gaston County.

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:

- (1) Shall have title to any dwellings, dwelling unit or rooming unit, with or without accompanying actual possession thereof, or
- (2) Shall be a mortgagor of record for any dwelling, dwelling unit or rooming unit, or
- (3) 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 adapted 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 one hundred and eighty (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 (1) 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 (30) 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 with one (1) or more of the requirements established by this ordinance.

Working Day shall mean normal working hours and working days for Gaston County Building Inspections.

The following terms of construction shall apply in the interpretation and enforcement of this ordinance:

Terms defined in other codes. Where terms are not defined in this code and are defined in the North Carolina Residential Code, North Carolina Plumbing Code, North Carolina Fuel Gas Code, North Carolina Mechanical Code, or the North Carolina regulations for Manufactured homes, such terms shall have the meanings ascribed to them as stated in those codes.

Terms not defined. Where terms are not defined through the methods authorized by this code, such terms shall have ordinarily accepted meanings such as context implies.

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

Sec. 4-124. Minimum standards of fitness for dwellings, dwelling units, and manufactured homes.

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

- (a) 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.
- (b) 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.
- (c) 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.

Sec. 4-125. Minimum standards for structural condition.

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

- (a) 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.
- (b) Floors or roofs shall have adequate supporting members and strength to be in a condition which is structurally sound and safe for the purpose used.
- (c) Foundations, foundation walls, piers or other foundation supports shall be in a condition which is structurally sound and safe for the purpose used.

- (d) 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.
- (e) Adequate facilities for egress in case of fire or panic shall be provided.
- (f) Interior walls and ceilings of all rooms, closets, and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable occupants to maintain reasonable privacy between various spaces.
- (g) 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.
- (h) There shall be no chimneys or parts thereof which are defective, deteriorated, in danger of falling, or in such condition or location as to constitute a fire hazard.
- (i) There shall be no use of the ground for floors, or wood floors on the ground.

Sec. 4-126. Minimum standards for basic plumbing, heating and electrical equipment and facilities.

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

(a) Plumbing System.

- (1) Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system. All said connections shall be constructed in an approved manner in accordance with existing regulations.
- (2) Each dwelling unit shall contain the following: 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 one hundred and twenty (120) degrees Fahrenheit. All water shall be supplied through an approved pipe distribution system, connected to a potable water supply.
- (3) 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.
- (4) 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.

(b) Heating System.

- (1) 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.

- (2) 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 habitable rooms, bathrooms and water closet compartments so as to furnish a minimum temperature of sixty eight (68) degrees Fahrenheit measured at a point three (3) 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.

(c) Electrical Systems.

- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall-type electric convenience receptacles in each room located on separate walls, and also one (1) electric light switch 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 to 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.
- (2) 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.
- (3) 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.

Sec. 4-127. Minimum standards for ventilation.

- (a) Habitable Rooms. Every habitable room shall have at least one (1) 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. The window or skylight shall face directly to the outdoors unless otherwise approved by the Housing Inspector.
- (b) 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.

Sec. 4-128. Minimum standards for space, use and location.

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.

- (a) Cellar. No cellar shall be used for living purposes.
- (b) Basements. No basements shall be used for living purposes unless:
 - (1) The floor and walls are substantially watertight;
 - (2) 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.

Sec. 4-129. Minimum standards for safe and sanitary maintenance.

- (a) 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, and capable of supporting the load which normal use would cause to be placed thereon.
- (b) 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.
- (c) 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.
- (d) Stairs, porches, and appurtenances. Every outside and inside stair, porch, and any appurtenance thereto, shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon, and kept in sound condition and good repair.
- (e) Bathroom floors and walls. Every bathroom floor surface, 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.

- (f) 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.
- (g) 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.
- (h) Egress. Every dwelling unit shall be provided with adequate and unobstructed means of egress as required by the NC State Building Code.

Sec. 4-130. Minimum standards for control of insects, rodents, and infestations.

- (a) Screens. In every dwelling unit, 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.
- (b) 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.
- (c) Infestation.
 - (1) Owners who occupy single dwelling units shall be responsible for extermination of any insects, rodents or other pests within the premises.
 - (2) 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.
 - (3) In cases of multiple dwelling units where infestation exists in two (2) or more of said units or in the shared or public parts of any dwelling units, extermination shall be the responsibility of the owner.
- (d) Garbage and Rubbish Storage and Disposal.
 - (1) 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.
 - (2) 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, and 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 that of the owner.

- (3) In cases of multiple dwelling the responsibility of rubbish and garbage removal will be that of the owner.

Sec. 4-131. 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.

- (a) 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 than 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.
- (b) 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.
- (c) Sanitary Conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house. 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.
- (d) 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.

Sec. 4-132. Smoke detection system.

All residential units, which have been ordered by the Housing Inspector to be repaired and to conform to the minimum standards set forth in this ordinance, shall have automatic smoke detection systems installed to conform to the standards in the North Carolina Building Codes. If a landlord fails to provide, install, replace, or repair a smoke detector under the provisions of North Carolina General Statute Section 42-42(a)(5) within 30 days of having received written notice from the tenant or any agent of state or local government of the landlord's failure to do so, the landlord shall be responsible for an infraction and shall be subject to a fine of two hundred fifty dollars (\$250.00) for each violation. The landlord may temporarily disconnect a smoke detector in a dwelling unit or common area for construction or rehabilitation activities when such activities are likely to activate the smoke detector or make it inactive. This section shall not apply to residential units that are not under direct order of the Housing Inspector to be repaired.

Sec. 4-133. Powers and duties of the Housing Inspector.

The Director of Inspections for Gaston County or his/her designee 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 the Housing Inspector's functions and powers to such officers, agents, and employees;
- (7) To administer oaths, affirmations, examine witnesses and receive evidence.

Sec. 4-134. Emergency situations.

(a) Emergency situations requiring immediate repair:

- (1) 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 that are leaking, improperly supported or dangerous;
- (2) 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 three (3) 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 hand delivery.
 - (3) Should the emergency situation not be corrected by the owner within the forty-eight (48) hour period after notification, then the Housing Inspector shall fine the owner two hundred and fifty dollars (\$250.00) and take action to authorize the disconnection of any and all utilities to the property, and to place a placard on the home stating that it is "unfit for human habitation". Furthermore, this property cannot be reoccupied until such time as the repairs are made and it has been re-inspected by the Housing Inspector to insure the emergency situation has been corrected to bring the dwelling into compliance with this ordinance pursuant to 153A-140.
 - (4) All other non-emergency violations of the Minimum Housing Ordinance shall be corrected within ninety (90) days from the date of inspection of the property. Failure to comply with this order will result in a fine to the owner of the property of fifty dollars (\$50.00) a day until the property is re-inspected and found to be in compliance with the Minimum Housing standard.
 - (5) An owner may appeal the order by giving written notice of appeal to the Gaston County Director of inspections within ten (10) days following the day the order is issued. In the absence of an appeal, the order of the inspector is final.
- (b) Natural Disasters. During periods of declared natural disasters, defined as hurricanes, tornados, floods, earthquakes, forest fires, and other similar acts of God, the provisions in this subsection shall be suspended:
- (1) 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.
 - (2) 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.
 - (3) 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.

- (4) 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.
- (5) 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.

Sec. 4-135. Utilities and permits.

- (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 Housing 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.

Sec. 4-136. Administration; Housing Appeal Board.

The Housing Board shall review all appeals from property owners relating to orders given by the Housing Inspector. At the appeals hearings the owners may present evidence to the board to show proof that the violations noted in the inspections report do not violate the minimum housing standards of Gaston County established by this ordinance. The Housing Board shall consist of five (5) members to serve for three-year staggered terms who shall be appointed by the Board of Commissioners. The composition of this Housing Board shall consist of five (5) members from the Gaston County Board of Adjustment. The Board shall have the power to elect its own offices, to fix the date and place of its meetings, to adopt the 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 4-139 as well as the North Carolina General Statutes, and shall keep an accurate record of all of its proceedings.

Sec. 4-137. Procedures for enforcement.

- (a) Whenever a petition is filed with the Housing Inspector charging that any dwelling is unfit for human habitation by at least five (5) residents 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:

- (1) that an inspection will be performed and a hearing will be held before the Housing Inspector or his designated agent at the subject property,
- (2) the hearing will be held not less than ten (10) days or more than thirty (30) days after the serving of the complaint;
- (3) 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
- (4) 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.

- (b) 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, to either repair, alter, abate or demolish the subject property.
- (c) 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 vacated and closed; and the Housing Inspector may cause the property 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. Failure by the owner to properly secure the property within ten (10) days will result in Gaston County securing the building and charging the owner for the expenses associated with this action.
- (d) 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 the proceeding subparagraphs (c) and (d) shall not be exercised until the Gaston County Board of Commissioners have 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. The Housing inspector shall inform the Board of Commissioners of the property at a public hearing after inspection of the property and failure of the owner to take corrective actions.

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.

- (e) The amount of the cost of 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 North Carolina General Statutes Chapter 160A, Article 10. 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.

- (f) 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 North Carolina General Statute Section 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 Board of Commissioners 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 North Carolina General Statute Section 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in North Carolina General Statute Section 7A-228, and the execution of such judgment may be stayed as provided in North Carolina General Statute Section 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 Board of Commissioners 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.
- (g) That whenever a determination is made pursuant to 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 forty-five (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 forty-five (45) days before causing removal or demolition.

Sec. 4-138. Methods of service or complaints and orders.

- (a) 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 has been filed with the Housing Inspector;
 - (2) The Housing Inspector shall also notify the tenant of the specific date of the inspection, in a similar manner to the owner notification.
- (b) If the house to be inspected is owner occupied, then the Housing Inspector shall advise the owner, at the time of the notice, of their constitutional rights to refuse entry to the Housing Inspector.
 - (c) If the owner or tenant will not grant entry to the property, then the Housing Inspector in accordance with North Carolina General Statute 15-27.2 will seek an administrative search warrant to inspect the property.
 - (d) 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.

Sec. 4-139. 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 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) If the violations are considered by the Housing Inspector to be emergency/life threatening violations, then the Housing Inspector shall cause the utilities to be removed and to place a placard on the home stating that "this occupancy is unsafe to occupy". The placard will remain in place until such time as the appeal can be heard.
- (c) 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.
- (d) 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 an 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.

Sec. 4-140. Alternative 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 North Carolina General Statute Section 14-4 and 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 North Carolina General Statute Section 153A-123, a civil penalty may be imposed by the Board of Commissioners.

Sec. 4-141. 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.

Sec. 4-142. Violations; Penalty.

- (a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove 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 such order is violated shall be considered failure, neglect, or refusal to comply with such order and shall constitute a separate and distinct offense.

- (b) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to Section 4-123 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.
- (c) The violation of any provision of this ordinance shall constitute a Class 3 misdemeanor, as provided by North Carolina General Statute Section 14-4.
- (d) 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.

Sec. 4-143. Amendment Procedure.

The Board of Commissioners may from time to time amend the terms of this ordinance. 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) or less than fifteen (15) days prior to the hearing date. In computing the fifteen (15) to twenty-five (25) day period, the date of publication is not to be counted, but the date of the hearing is.

Sec. 4-144. 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.

Sec. 4-145. Miscellaneous.

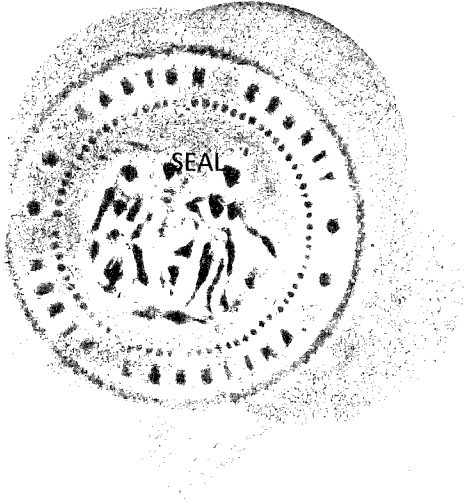
When an order to renovate, repair or demolish a dwelling has been issued by the Housing Inspector where the subject property is unoccupied, the property owner shall take steps to secure the building covering all points of ingress/egress and openings with material which is not easily penetrable (such as plywood or boards of sufficient width to withstand penetration or other similar materials.)

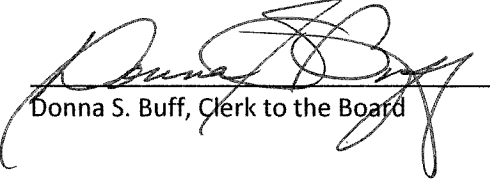
Failure by the owner to properly secure the property within ten (10) days will result in Gaston County securing the building and charging the owner for the expenses associated with this action. Failure to pay for this expense will result in the charges being placed against the property as property taxes.

Sec. 4-145. Effective Date.

This ordinance, as filed with the Clerk to the Board, shall be effective upon adoption by the Gaston County Board of Commissioners.

I, Donna Buff, 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 Board of Commissioners at a regular meeting held on May 28, 2019.




Donna S. Buff, Clerk to the Board



Gaston County

Gaston County
Board of Commissioners
www.gastongov.com

County Attorney

Board Action

File #: 19-190

Commissioner Chad Brown - County Attorney - To Modify Chapter 4, Article VI of the Gaston County Code of Ordinances Concerning Minimum Housing Standards

STAFF CONTACT

Charles Moore - County Attorney

BUDGET IMPACT

N/A

BUDGET ORDINANCE IMPACT

N/A

BACKGROUND

Gaston County currently has a Minimum Housing Ordinance, but wishes to improve minimum housing enforcement. One way to improve and streamline minimum housing enforcement is to update the Minimum Housing Ordinance. The general regulations of the existing ordinance remain intact. However, the revised ordinance improves the current ordinance by clarifying the role of the Chief Building Inspector (also known as the Housing Inspector) as well as the appeals board. The ordinance also states with greater specificity what constitutes a violation of the minimum housing code.

POLICY IMPACT

As the revised ordinance must follow state law, the substantive revisions are minor. However, the ordinance is part of a general goal of the County to increase the standards of buildings in the County.

ATTACHMENTS

Resolution and Ordinance

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, 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:

NO.	DATE	M1	M2	CBrown	JBrown	AFriley	BHovis	TKelgher	TPhillbeck	RWorley	Vote
2019-129	05/28/2019	CB	JB	A	A	A	A	A	A	A	U

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