Section 1: **Civil Citation**

Section 1.1: **Civil Citation**

(a) A person who violates a standard of conduct set forth in a section or chapter of the Town of Hildebran Code of Ordinances is liable for the civil fine specified in Section 1.2

(b) The Town Code Enforcement Officer or Sheriff's Deputies of the Town of Hildebran assigned or charged with the enforcement of the Town of Hildebran Code of Ordinances may as authorized issue a civil citation, as shown in the appendix.

Section 1.2: **Civil Fine**

The civil fine for a civil citation is to be set at $50.00 unless otherwise stated in an individual Ordinance in the Town's Code of Ordinances.

Section 1.3: **Penalties for Civil Citation**

(a) Any person issued a civil citation from a Town Code Enforcement Officer or Sheriff's Deputies is given ten (10) working / business days to pay the civil fine at Town Hall, at 202 South Center Street Hildebran, North Carolina 28637 or Mailed to the Town of Hildebran, 202 South Center Street, Hildebran, NC 28637.

(b) Any person that does not pay a civil fine after forty-five (45) days is to be considered delinquent and the Town of Hildebran shall have the right to take any legal action necessary to enforce collection of the citation, and any additional cost passed to the Town shall be passed on to the recipient of the civil fine.

(c) A Town Code Enforcement Officer or Sheriff's Deputies shall never under any circumstances collect money for a civil fine at the time of issuance. All collections must be carried out as set forth by Section 1.3(a) or (b).

Section 1.4: **Appealing a Civil Citation**

Any person who wishes to appeal a civil citation may, within ten (10) working / business days, complete a Civil Citation Appeal form. The appeal shall be heard by the Town Council at their next regularly scheduled Council Meeting. The Town Council, after hearing the appeal shall determine the validity of the appeal. If the appeal is found to be invalid then the civil fine must be paid in accordance to Section 1.3 (a).

Section 1.5: **Exemption**

Neither the Town of Hildebran, the State of North Carolina, the United States Government, nor any city, federal or state agency, nor any political subdivision is liable for civil fines imposed pursuant to this Ordinance.

Section 1.6: **Authority Given by State**

Authority is hereby given to the Town of Hildebran to established a Code of Ordinances pursuant to North Carolina General Statutes Sections 160A-174, 160A-175, and 160A-193.

Section 1.7: **Applicability**

This Ordinance shall be in full force and effective upon its adoption.

Section 2: **Civil Violations/ Civil Fines**

Section 2.1: **Parking Violations**

Blocking Fire Hydrant - $25.00
Parking in a Fire Lane - $25.00
Parking on a sidewalk - $25.00
Parking in a No Parking zone - $25.00
Parking Vehicle inside Park outside of designated parking areas - $25.00
Parking outside of designated parking spaces - $25.00
Parking in Law Enforcement Only Parking Area - $25.00
Parking in a Handicap Parking - $100.00

Section 2.2: **Vehicle / Traffic violations**

(a) Speeding - Any vehicle traveling over the posted speeding limit in the Town Limits may receive a civil fine of $50.00 dollars.

(b) Failure to Stop- Any vehicle that fails to stop at a stop sign or red light within the Town Limits may receive a civil fine of $50.00 dollars.

(c) Littering- Any person that Litters in the Town Limits may receive a civil fine of $50.00 dollars. Littering shall be defined as the throwing of waste products such as bottles, containers, papers, wrappers, and cigarette butts onto the ground as opposed to disposing of it in a waste collection container.

Section 2.3: **Use of roller skates, roller blades, skateboards, scooters, and other similar devices restrictions**

(a) No person shall ride or use roller skates, roller blades, skateboards, scooters, or similar devices upon any public street, public vehicular area as that term is defined by G.S. 20-4.01(32), located in the Central Business District, General Manufacturing District and Highway Business. This section does not apply to bicycles.

(b) No person shall ride or use roller skates, roller blades, skateboards, scooters, or similar devices upon any public sidewalk in a reckless manner or without exercising due care for the safety of other persons using the sideway. Any person riding or using roller skates, roller blades, skateboards, scooters, or similar devices shall yield the right of way to pedestrians.

(c) Notwithstanding the foregoing, the Town of Hildebran Council is hereby authorized and empowered specifically to designate from time to time a certain public street or portions thereof upon which persons may be permitted to ride or use roller skates, roller blades, skateboards, scooters, or similar devices under such rules and regulations as may be prescribed by the Town Council to ensure the public safety.

(d) In the event of a violation of any of the provisions of this section by a minor, Sheriff's Deputies, Code Enforcement Officer or Town Employee may issue a civil fine to a parent or guardian.

Section 2.4: **Disturbing the Peace**

Defined: It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing noises in the town. The following acts, among others, are declared to be loud, disturbing, annoying and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive:

(a) To sound any horn, or signal device in any other manner or circumstances or for any other purpose than required by the laws of the State.

(b) The playing of any electronic sound equipment or other musical instrument in such a manner or with such a volume, during the hours between 11:00 p.m. and 7:00 a.m. as to disturb the peace.

(c) The keeping of any animal which causes frequent or continued noise, shall disturb the peace. Frequent or continued noise shall be defined as three (3) or more confirmed incidences reported to local law enforcement within a seven-day period.

Section 2.5: **Discharge of Projectile Weapons**

Defined: It shall be unlawful for any person to shoot any projectile weapon in the town limits with the exception of self-defense or in the act of defending ones' own property, life or special events sanctioned by the Town Council or in the discharge of duty by a law enforcement officer. Slingshots and BB guns shall be excluded from the definition of projectile weapon. Bows, arrows, archery on personal property shall provide a safe backstop berm to ensure projectiles remain on ones' own property. Exemptions also include archery ranges, firing ranges or in legally established shooting galleries or ranges.

(a) **Penalties:** Any person (s) who are found to be in violation of this Ordinance shall pay a civil fine of $170.

Section 2.6: **Possession / Consumption of Alcohol in Public**

Defined: It shall be unlawful for any person to possess and/or consume alcohol in a public place, including the following: public streets or highway, public vehicular areas, Town or government property. Notwithstanding the following exceptions:

(a) On personal residential property or private residential property.

(b) Times, places or events specifically authorized by Town of Hildebran Town Council. Rules and regulations as may be prescribed by the Town Council to ensure the public safety may apply.

Section 2.7a: **Hildebran Community Park Rules**

Applicability: The following rules are applicable in the Hildebran Community Park, 114 Main Avenue East.

(a) No alcohol or controlled substance or anyone under the influence of either allowed. Exception for alcohol possession and/or consumption: Times, places or events specifically

authorized by Town of Hildebran Town Council. Rules and regulations as may be prescribed by the Town Council to ensure the public safety may apply.

(b) No tobacco products of any kind allowed
(c) No possession of illegal firearms or discharge of fireworks
(d) No skateboards, rollerblades or skates allowed in any area of the park
(e) No bicycles or motorized vehicles beyond the parking lot or on walking trail
(f) No profanity or loud, abusive language or loud music
(g) No pets permitted in the park unless on a leash. Owner is responsible for cleaning up after pet. Failure to do so may result in expulsion from the park.
(h) No horseplay (horseplay is defined as any activity that can lead to injuries to oneself and/or others, or damage to property), defacing or abuse of park facilities or grounds
(i) No loitering in parking lot
(j) Children under 13 must be accompanied and supervised by an adult
(k) No littering - dispose of trash in proper receptacles.
(l) Park Hours:
Winter Months (Jan-Mar and Oct-Dec) 7:00 a.m. until 6:00 p.m.
Summer Months (Apr-Sept) 7:00 a.m. until 9:00 p.m.
(m) No overnight parking is allowed
(n) Gate to upper parking lot will be closed and locked every night at **6:00 p.m.** during the winter hours and **9:00 p.m.** during the summer hours.
(o) Park is patrolled by the Town's contracted patrol service, the Burke County Sheriff's Department, the Hildebran Community Deputy and the Town Staff. Failure to cleanup or comply with park rules and regulations may result in expulsion from the park and/or civil citation.

Section 2.7b: **Royal Park Rules**

Applicability: The following rules are applicable in the Royal Park, 206 South Center St., Hildebran.

(a) No alcohol or controlled substance or anyone under the influence of either allowed. Exception for alcohol possession and/or consumption: Times, places or events specifically authorized by Town of Hildebran Town Council. Rules and regulations as may be prescribed by the Town Council to ensure the public safety may apply.
(b) No tobacco products of any kind allowed.
(c) No possession of illegal firearms or discharge of fireworks.
(d) No skateboards, rollerblades or skates allowed in any area of the park.
(e) No bicycles or motorized vehicles beyond the parking lot or on walking trail.
(f) No profanity or loud, abusive language or loud music.
(g) No pets permitted in the park unless on a leash. Owner is responsible for cleaning up after pet. Failure to do so may result in expulsion from the park.
(h) No horseplay (horseplay is defined as any activity that can lead to injuries to oneself and/or others, or damage to property), defacing or abuse of park facilities or grounds.
(i) No loitering in parking lot.
(j) Children under 13 must be accompanied and supervised by an adult.
(k) No littering - dispose of trash in proper receptacles.
(l) Park Hours:
Winter Months (Jan-Mar and Oct-Dec) 7:00 a.m. until 6:00 p.m.
Summer Months (Apr-Sept) 7:00 a.m. until 9:00 p.m.

(m) No overnight parking is allowed.
(n) Splash Pad rules posted at the site must be followed. Failure to do so may result in expulsion from the park.
(o) Park is patrolled by the Town's contracted patrol service, the Burke County Sheriff's Department, the Hildebran Community Deputy and the Town Staff. Failure to cleanup or comply with park rules and regulations may result in expulsion from the park and/or civil citation.

Section 2.8: **Prohibiting Tobacco Product Use**

Defined: Tobacco product is any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component part or accessory of a tobacco product, including but not limited to cigarettes; cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cutting and sweepings of tobacco; and other kinds and forms of tobacco. A tobacco product excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

(a) The use of any tobacco products is prohibited at the following locations:
- All property owned by the Town of Hildebran, including parks. See 2.8(b) for exceptions.

(b) Tobacco use is only permitted in designated areas indicated by signage and accompanied by ash and cigarette butt receptacles. Anyone using tobacco products must remain within ten (10) feet of the receptacles at all times.

Section 2.9: **Prohibiting Urban Camping and Improper Use of Public Places**

(a) Definitions. The following words, terms or phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
Camp means residing in or using a public street, sidewalk or park for private living accommodations, such as erecting tents or other temporary structures or objects providing shelter; sleeping in a single place for any substantial prolonged period of time; regularly cooking or preparing meals; or other similar activities.

Other public property includes all public or municipal buildings, facilities, structures, properties upon which the buildings, facilities or structures are located, lots, parcels, and any other public properties.

Public park includes all municipal parks, public playgrounds, public plazas, attractions and monuments.

Public street includes all public streets, highways, rights-of-way, public sidewalks, public benches, public parking lots and medians.

Storing personal property means leaving one's personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended

for any substantial prolonged length of time. The term "storing personal property" shall not include parking a bicycle or other mode of transportation.

(b) *Public parks.* It shall be unlawful to camp or to store personal property in any park, as defined above, owned by the city.

(c) *Public streets*. It shall be unlawful to camp, to sleep, to store personal property, to sit or to lie down on any public street as defined above.

(d) *Other public property-Blocking ingress and egress; interfering with the normal course of business associated with the designated public property.* It shall be unlawful to camp, to sleep, to store personal property, to sit or to lie down on any public property so as to interfere with ingress or egress from buildings or to interfere with the normal course of business or operations for which the buildings or properties are designated.

(e) *Warning.* No person may be arrested for violating this code section until that person has received an oral or written warning to cease the unlawful conduct. If the violator fails to comply with the warning issued, that person is subject to arrest for urban camping.

(f) *Exceptions*. This section shall not be construed to prohibit the following behavior:

(1) Persons sitting or lying down as a result of a medical emergency;
(2) Persons in wheelchairs sitting on sidewalks;
(3) Persons sitting down while attending parades;
(4) Persons sitting down while patronizing sidewalk cafes;
(5) Persons lying down or napping while attending performances, festivals, concerts, fireworks or other special events;
(6) Persons sitting on chairs or benches supplied by a public agency or abutting private property owner;
(7) Persons sitting on seats in bus shelters occupied by people waiting for the bus;
(8) Persons sitting or lying down while waiting in an orderly line awaiting entry to any building, including shelters or awaiting social services, such as provision of meals;
(9) Children sleeping while being carried by an accompanying person or while sitting or lying in a stroller or baby carriage; or
(10) Camping by groups or persons with prior approval of the city council.

(g) *Penalty.* A violation of this section is a misdemeanor as set forth in G.S. 14-4.

Section 3: **Nuisance Code and Violations**

Article 1: Nuisance

DIVISION 1. - General

Section 3-1.1: **Definitions**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section unless the context clearly indicates that a different meaning is intended:

Agent means the person who manages or has custody of a business building or the person to whom rent thereon, if any, is paid.

Apartment or *apartment house* or *tenement house* means every house, building, or portion thereof which is rented, leased, let or hired out to be occupied or is occupied as the house, home or residence of more than two families, living independently of each other and doing their cooking on the premises, or by more than one family upon a floor, so living and cooking, but having no common right in the halls, stairways, yards, water closets or privies.

Ashes means the residue from the burning of wood, coal, coke or other combustible material. "Ashes" shall not include cremated human remains.

Attached business unit means a structure of two or more business offices constructed as one unit, such as a dental office, medical office, insurance office or any other business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.

Brushwood means large, heavy yard trimmings resulting from heavy pruning or shrub removal with maximum six-inch diameter at large end;

Building material means lumber, brick, stone, dirt, carpet, plumbing materials, plaster, concrete, floor coverings, roofing material, gutters and other materials or substances accumulated as a result of new construction, repairs, remodeling, or additions to existing structures or accessory structures or demolition of such.

Bulk container means a commercially made metal container designed to store and hold rubbish and solid waste until the same can be collected for disposal, generally having a capacity of not less than four cubic yards nor more than eight cubic yards and capable of being serviced and emptied by automated machinery.

Bulk service means a customer that stores and disposes of rubbish and solid waste in a bulk container.

Business building means any structure, whether public or private, in the Town that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display, sale or storage of goods, wares or merchandise or for the performance of work or labor, including, but not being limited to, hotels, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories in business areas and all outhouses, sheds, barns and other structures on premises used for business purposes.

Collection means the act of removing solid waste from a point of generation to an approved disposal site.

Collection on private property means the act of removing solid waste from private developments for an additional fee from a point of generation to an approved disposal site. Collection shall be made at a mutually established location approved by the property manager and the Town manager or appointed designee for automated collection.

Commercial establishment means any structure or location, whether public or private, that is adapted for occupancy for the transaction of business, for the rendering of professional services, for amusement, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotel rooms, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories and all other houses, sheds, barns and other structures on premises used for business purposes. "Commercial establishment" shall also include churches, houses of worship or other religious or eleemosynary institutions, regardless of size.

Construction and demolition waste means solid waste incident to maintenance, remodeling or new construction, including, but not limited to, mineral matter, wood, sheetrock, shingles and metal, but specifically excluding any substance which is contaminated by asbestos, lead based paint, or any other substance the disposal of which is regulated as a toxic or hazardous material.

Condominium means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Disabled person means any person who by reason of infirmity, or other physical or mental impairment is incapable of complying with the provisions of this chapter as it relates to the placement of refuse containers curbside. Included in the definition are children 12 years of age and under;

Family living unit means, but is not limited to, single-family residences, single mobile homes, single-family living units in duplexes, apartments, and other multifamily dwellings, but shall not include hotels or motels;

Fee means that charge by the Town associated with a good or service provided to or for the benefit of a customer.

Garbage means all putrescible wastes except sewage and body wastes, including all meat, vegetables and fruit refuse commonly resulting from the handling, preparation, cooking and consumption of food, from or on any premises within the Town limits.

Graffiti shall mean writings, drawings, inscriptions, figures, or marks of paint, ink, chalk, dye, or other similar substances on public or private buildings, sidewalks, streets, structures, or places which such marking are not authorized or permitted by the property owner or possessor. For the purpose of this chapter, graffiti shall include drawings, writings, markings, or inscriptions regardless of the content or the nature of the materials used in the act.

Nothing in this chapter shall be construed to prevent temporary, easily removable chalk or other water-soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with typical children's activities, such as drawings, or bases for stick ball, kickball, handball, hopscotch or other similar activities. Nothing in this chapter shall be construed to prohibit temporary, easily removable chalk or other water-soluble markings used in connections with any lawful business or public purpose or activity.

Hazardous household waste means any of the following materials, existing in a home because of their use in that home: pesticides; herbicides; petroleum products (epoxy resins, coal tar, polishes, thinners, mineral spirits, varnish, grease, caulking materials); solvents; acids (muriatic, hydrochloric, sulfuric, phosphoric); poisons (arsenic, lead, chrome and warfarin compounds); alkaline material (photo developers, sodium hydroxide, bleaches); oil based paints and stains, but not latex paints; batteries of all kinds, for cars, flashlights, smoke detectors, hearing aids, toys, watches and similar batteries; antifreeze; and used motor oil.

Hazardous material or *hazardous waste.* The following is an explanation of hazardous waste as published in the North Carolina Hazardous Waste Management Law adopted for the Federal Environmental Protection Agency (EPA). For the purposes of this chapter, the definition "hazardous waste" has been condensed. The terms defined are not inclusive of all items specified by the EPA regulations. Hazardous waste is defined as potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes ignitable, corrosive, reactive and toxic waste such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal), and explosives.

Health official means the chief health official of the County Health Department or any health department including County or any person whom he has authorized to perform any of the powers or duties conferred upon him by this article.

Hotels and motels means places of business whose primary business and the one in which they are normally and customarily engaged in supplying temporary living quarters with limited family living facilities for short periods of time.

Household sharp medical waste means any type of product capable of puncturing or lacerating the skin that is designed or used to treat, diagnose, or prevent a disease or medical condition, including, but not limited to, scalpels and hypodermic needles.

Industrial and commercial waste means those wastes, including solids, semisolids, sludge and liquids generated by an industry, commercial establishment or other manufacturing enterprise that is not classified as a hazardous waste or requires special handling such as oils, acids, etc.

Infectious waste means a solid waste capable of producing an infectious disease. Examples of waste designated as infectious are: micro-biological waste, pathological waste, blood products, improperly packaged sharps and all other waste as defined in the medical waste management regulation under 15A NCAC 13B.1200 in North Carolina Solid Waste Management rules.

Liquid waste means any waste material that is determined to contain free liquid as defined in Method 9095, Paint Filter Liquid Test, as described in Test Methods for Evaluating Solid Waste, Physical/Chemical Method, as published in the Environmental Protection Agency Publication No. SW-846 or any successor or equivalent publication.

Litter means any discarded man-made materials including, but not limited to, solid waste materials, industrial materials, household trash, business trash, building materials, scrap materials and hazardous waste as such terms are defined in this chapter and not properly containerized or prepared for collection and disposal.

Multifamily residential unit means two or more single-family dwellings constructed as one unit, such as apartment houses, motels, mobile home parks, townhouses, patio houses, or condominiums. Duplexes/triplexes built on public streets are not considered multifamily residential units.

Nuisance means any condition or use of property, or any act or omission affecting the condition or use of property, which directly threatens the safety of citizens; adversely affects the general health, happiness, security and welfare of others; or is detrimental to the rights of others to the full use of their own property and their own comfort, and happiness because of decreased property values and the unattractiveness and livability of neighborhoods. Further, the Town Council finds and declares that the following specific conditions are prejudicial to the general health, safety and welfare of the Town and its citizens; lessen the attractiveness and livability of the Town; and, when located on any lot or parcel of land within the Town limits, are a nuisance.

Occupant means the individual, firm, partnership or corporation that has the use of, controls or occupies any business building, apartment house or tenement house, or any portion thereof, whether

owner or tenant. In the case of vacant business buildings, apartment houses or tenement houses, or any vacant portion of a business building, apartment house or tenement house, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.

Occupant means the person who has the use of or occupies any business building or any part thereof, or who has the use or possession, actual or constructive, of the premises, whether the actual owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, or in case of occupancy in whole or in part by the owner and agent of the building, such owner or agent shall be deemed to be and shall have the responsibility of an occupant of such building.

Opening means any opening in foundation, sides or walls, ground or first floor or basement, including chimneys, eaves, grills, windows, ventilators, walk grates, elevators and any pipes, wires or other installations through which a rat may enter.

Open place shall constitute any portion or area of a property not enclosed by walls, this shall include, but not be limited to, carports, patios, porches, decks, terraces, lean-tos, outbuildings, and the like, which are exposed to the exterior and/or public view, including, but not limited to, front, side, and/or rear yards. Tarps, plastic sheeting, canvas sheeting, unfinished building materials or the like shall not constitute walls.

Owner means the person owning the business building or premises, or agent of the building or premises, or the person to whom rent is paid; whether an individual, firm, partnership or corporation. In the case of business buildings leased or rented with a covenant in the lease or other agreement under which the lessee is responsible for maintenance and repairs, the lessee shall also be considered in such cases as the owner for the purpose of this chapter.

Physical disability means a medical condition, verified by a registered physician, that makes an individual physically unable to bring the automated refuse/automated recycling container to the curbside for collection and where there is no one else residing in the household capable of taking the containers to the curbside.

Premises means business houses, boardinghouses, rooming houses, offices, theaters, hotels, tourist camps, apartments, restaurants, cafes, bars, eating houses, hospitals, schools, private residences, mobile home parks, vacant lots and other places where garbage, trash or rubbish accumulates.

Private street means a street not open to public use, on private property, and not maintained by any governmental agency.

Private property means all of that property as described and set out in an owner's deed including, but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, vacant land, bodies of water and including sidewalks, grass strips, one-half of alleys, curbs or rights-of-way up to the edge of the pavement of any public street.

Public street means the entire width between property lines, whatever nature, when any part thereof is dedicated or open to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic.

Public property means all that property except private property as herein defined, including but not limited to highways, streets, parks, recreation areas, sidewalks, grass strips, medians, curbs or rights-of-way up to the edge of the pavement of any public street or body of water.

Qualifying customer means a single-family detached home, duplex, or condominium regardless of the size of complex, or an apartment, tenement house or townhome which, when combined with all other units located on the premises, is comprised of not more than six family living units.

Rat eradication means the removal, killing, destruction and extermination of rats by systematic use of traps or by poisons and by other methods.

Rat harborage means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a structure of any kind, including, but not limited to, conditions on vacant lots, creeks, branches, ditches, rubbish heaps, junkyards and any other places inside or outside of structures which afford shelter or provide a place or situation favoring the breeding, multiplication or continued existence of rats.

Rat stoppage or *rat-proofing* means a form of construction to prevent ingress of rats into business buildings from the exterior or from one building to another; it consists essentially of the closing, with material impervious to rat gnawing, of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground, by climbing or by burrowing.

Refuse means all solid wastes, including garbage, rubbish and trash.

Rollout container means a plastic or fiberglass container, having wheels for ease of movement and a lid which securely covers the bin designed to keep flies and other vermin from refuse, which is approximately 95 gallons in size and designed for the automatic collection of refuse by Town machinery.

Rubbish or trash means matter that is worthless or useless or of no substantial, practical value or matter that is of value only when it has decayed or has been recycled. Rubbish is solid waste, exclusive of garbage or ashes, including, but not limited to, leaves, pine needles, twigs, limbs and other such parts of trees not useful as timber and shall include the trunks and limbs of trees, even though useful for timber, when the same have been blown down or felled, either partially or totally, and which have become dried and flammable; tin or aluminum cans, bottles, papers, paper boxes or cartons, small light wood or crafting materials, rags, excelsior, rubber, leather, metals, wire or wire scraps, glass and crockery, but shall not include salvage automobiles, buses, or other items which in the judgment of the Town is likely to cause damage to equipment of the Town or injury to employees of the Town, or is likely because of the nature, size or weight of the material, to handicap or overburden the automated equipment.

Sharps container means a container specifically manufactured for the disposal of sharp medical waste.

Single business unit means any single nonresidential unit that generates no more garbage per week than can be placed or stored in a maximum of one rollout container with a total capacity of no more than 95 gallons when accumulated between collections, such as a dental office, medical office, insurance office or another business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.

Single-family residential unit means any dwelling place occupied by one family and not defined as a multifamily residential unit.

Solid waste means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example and not by limitation, rubbish, garbage, commercial and industrial waste, scrap materials, junk, refuse, demolition and construction debris and landscape refuse, but shall not include sludge from air or water pollution control facilities, septic tank sludge or agricultural or unacceptable waste.

Solid waste disposal facility means any land or structure or combination of land area and structures, including dumps, landfills and transfer stations used for storing, transferring, collecting, separating, processing, recycling, recovering, treating, salvaging, reducing, incinerating or disposing of solid wastes.

Stationary bulk compactor means any Town approved container made of watertight construction that contains a packing mechanism and an internal or external power unit, and constructed so that the container can be emptied mechanically by means of automated equipment for the purpose of collection of solid waste.

Town home or *town house* means an apartment or other family living unit which is capable of ownership separate and apart from other portions of the structure to which it is conjoined or of which it may be a part, but of which there is no ownership interest in the common areas of the facility in the owner of the individual dwelling unit.

Unacceptable waste means items which are not appropriate for disposal through this means and includes, but is not limited to, sewage and its derivatives, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and hazardous waste.

Unit means one single-family residence or an individual apartment, motel room or suite, mobile home, townhouse, patio house, condominium, cluster home in a multifamily residence, unless otherwise specified by the Town.

Waste means all useless, unwanted, or discarded materials resulting from industrial, commercial, agricultural and residential activities.

White goods means large household appliances, regardless of actual color, including, but not limited to, refrigerators, stoves, washers, dryers, etc.

Yard waste means vegetative matter and other materials generated while providing normal maintenance to the yard areas adjacent to a single-family residential unit without earth, soil or other mineral matter attached thereto, including, but not limited to, leaves, grass, twigs, limbs, hedge trimmings, plant trimmings, and shrubs. This shall not include plastic or synthetic fibers, lumber, rocks, gravel, dirt or tree or shrubbery remains except as specifically authorized herein, or soil contaminated with hazardous waste.

Section 3-1.2: **Nuisance**

Any condition specifically declared to be a danger to the public health, safety, morals and general welfare of inhabitants of the Town and a public nuisance by the Town Council or is in violation of any Town, county or state health regulation is considered to be a nuisance, as follows, but not limited to:

(1) Unfit Habitat:

(a) Whatever renders the air, food or water unwholesome.

(b) Whatever building, erection, structure or part of cellar thereof is overcrowded or not provided with adequate means of ingress and egress or is not sufficiently supported, ventilated, drained, cleaned or lighted.

(c) An occupied or used improvement thereon without utility services resulting in conditions which are detrimental to the health, safety or welfare of citizens and the peace and dignity of the Town.

(2) Unsanitary, stagnant, or inhibited water:

(a) Any stagnant water, to include all cellars and foundations of houses whose bottoms contain stagnant or putrid water.

(b) Disease vectors. An open place of collection of water where insects tend to breed; permitting of any stagnant water, filth or any other matter harmful to health or comfort to remain on the premises of the owner or premises under control by the owner or person

in control within the corporate limits after twenty-four (24) hours' notice of such condition;

(c) All business organizations, such as public motor vehicle garages, service stations, dry cleaning establishments, and any other businesses or industrial organizations which shall discharge any petroleum products, chemicals or other such substances which would or could pollute any creek or stream within the zoning jurisdiction of the Town.

(d) It shall be unlawful for any person to obstruct the flow of water in any stream or drainage way within the Town by throwing or placing stumps, brush, rubbish, litter or other material within or along the banks of any such stream or natural drainage way.

(e) Any improper or inadequate drainage on private property which causes flooding, interferes with the use of, or endangers in any way the streets, sidewalks, parks or other Town-owned property of any kind; provided, that the notices required and powers conferred by this chapter by and on the public official in abating the nuisances defined by this paragraph shall be given and exercised by the Town manager or the director of public works;

(3) Rats, snakes, carcass and feral animals:

(a) Any building or premises which is constructed or maintained in such a manner so as to provide food, shelter or protection for rats.

(b) Firewood, if stored outdoors, shall be stacked orderly to prevent wildlife habitat.

(c) Hides, dried or green, provided the same may be kept for sale in the Town when thoroughly cured and odorless;

(4) Junk:

(a) Any furniture originally intended for indoor or interior use, outdoor furniture in disuse or disrepair,

(b) Seating removed from motor vehicles,

(c) Storage containers,

(d) Automotive parts and/or supplies,

(e) Inoperable appliances, exercise equipment.

(f) Other metal products of any kind or nature kept within an open place which have jagged edges of metal or glass, or areas of confinement.

(g) Junked motor vehicles on public grounds and private property (Reference Section 2: Abandoned, Junk and Nuisance Motor Vehicles).

(5) Plant Overgrowth:

(a) Weeds, grasses and/or other vegetation on one's residential, business, or vacant lot which is over 8 inches in height on the average or to permit such lot to serve as a breeding place for mosquitoes, as a refuge for rats and snakes, as a collecting place for trash and litter or as a fire hazard. It will be the responsibility of the owner to cut and remove all weeds and other overgrown vegetation as often as necessary so as to comply with the provisions of this section. This provision shall not apply to lots greater than one acre, but shall be maintained in accordance with this provision to a depth of 20 feet from its property lines if and only if the adjacent property is occupied by a dwelling or other structure located within 50 feet of such property. This provision will not apply to wooded vacant lots that are more than 75 percent covered with

mature trees, or property that consist of ravines, creek banks, or severe slopes which may cause the maintenance dangerous or unsafe. Furthermore, this provision will not apply to vacant lots that are larger than three acres in size (i.e. Golf courses, farmland, vineyards, etc...). Natural means of plant removal is permitted on parcels of land greater than 200 acres;

(b) A place of vines, shrubs or other vegetation over eight inches in height when such vines, shrubs or vegetation are a focal point for any other nuisance enumerated in this Code; provided, the nuisance herein defined by this subsection shall be cleared and cut only when it is necessary to abate any other nuisance described in this section;

(c) A place of growth of noxious vegetation, including poison sumac (Rhus vernix), poison ivy (Rhus radicans) or poison oak (Rhus Toxicodendron), in a location likely to be accessible to the general public;

(d) Any hedge, shrubbery, tree or plant along any street, alley or sidewalk planted closer than 18 inches or extending closer than 12 inches or lower than 14.5 feet to such street, alley or sidewalk, or any of the above-mentioned vegetation that obscures clear vision as located within the protected sight distance triangle.

(6) Trash and waste:

The storage of garbage and trash in containers as prescribed by this chapter and the regular collection thereof by the Town upon payment of fees and charges as provided in this chapter are hereby declared to be essential to the efficient operation of the Town and to the prevention of disease and protection to the public health. Any accumulation of rubbish or trash causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind.

(1) Scattering of garbage or trash, storage of garbage or trash except in containers as provided by this chapter, or the accumulation of trash by reason of nonpayment of fees or charges for its removal is hereby declared to be a nuisance and a violation of this chapter.

(2) Under no circumstances shall trash or garbage be allowed to accumulate or be stored for a period longer than 30 days.

(3) Under no circumstances shall trash or garbage be dumped or stored on any right of way or in any alley or on any lot without being placed in proper containers as prescribed herein.

(4) No industrial wastes, manure, debris from construction or repair work, leaves, trees or tree trimmings may be dumped or stored on any within any right of way or in any alley.

(5) No owner or occupant of any premises shall prohibit or prevent weekly solid waste collection services at the premises.

(6) An open place of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind.

(7) Public streets maintenance:

(a) Failure to clean or clear a public street, property, and adjoining sidewalks of any earth, sand or mud and debris related to a construction, timbering, or other similar land use project within 12 hours after notification by the Town for major and minor thoroughfares or within 24 hours after such notification for collector and local streets; however, if it is found by the Town that the situation is causing a clear and present danger or hazard to traffic or the general public, such cleaning or clearing

may be required to take place as soon after notification as practicable. This provision does not preempt any applicable federal, state, or county regulations applicable to said events.

(b) Property owners are required to maintain any area of their property which is located between a public sidewalk and the curb of a paved street in accordance with the guidelines set forth in this section.

(8) Odor:

(a) Unsightly litter, foul or offensive odors which remain upon or emanate from a property.

(b) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person.

(9) Construction materials: Lumber and building supplies, earth, sand and/or gravel on construction sites where the work is discontinued for a period of 60 days.

(10) Graffiti: It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti.

(11) Animal sanitation:

(a) Any person owning, harboring, walking, in possession of or in charge of a dog, which defecates on public property, public park property, public right-of-way property or any private property without the permission of the private property owners, shall remove all feces immediately after it is deposited by the dog. All feces removed in accordance with this section shall be placed in a suitable bag or other container that closes and disposed of in a lawful manner.

(b) Any person, while harboring, walking, in possession of or in charge of a dog on public property, public park property, public right-of-way or any private property without the permission of the private property owner, shall have in possession a bag or other container that closes, which is suitable for removing feces deposited by the dog.

(c) The provisions of this Section shall not apply to visually impaired persons using dogs as guides.

(12) Abandoned Manufactured Homes, reference Article 5

State Law reference— Similar provisions, G.S. § 160A-193

Section 3-1.3**: Exceptions**

Exceptions. The provisions contained in subsection 1.02. 4: Junk and 6: Trash and debris, shall not apply to commercial property owners, including, but not limited to, junk yard dealers, salvage companies, yard waste recycling operations, cement, quarry or other mining type businesses, whose operations include the accumulation, storage, sale, repair, or maintenance of such materials or objects and who have obtained all applicable zoning and operating permits and are following all applicable ordinances contained within the Code of Ordinances and the Zoning Ordinance. In addition, the provision contained in subsection 1.02.7.a. shall not apply to stockpiled rock, stone, gravel, sand, earth, or other similar materials on sites utilized and maintained by the North Carolina Department of Transportation or the municipality.

Section 3-1.4: **Notice**

(a) Whenever the code official or appointed designee have determined that the conditions on a particular lot or parcel of land are a nuisance and should be abated or otherwise corrected, the code official or appointed designee shall give notice to the owner, lessee or other person in possession of the premises in writing setting forth the findings and describing the appropriate corrective action. The code official or appointed designee may establish a deadline, not to exceed sixty (60) days, for the abatement of the nuisance.

(b) The notice may be served upon the owner, occupant or person in possession of the premises by at least one (1) of the following methods:

(1) By delivering a copy of the notice to the person or by leaving copies of the notice at the person's residence with some person of suitable age and discretion then residing on the premises;

(2) By mailing a copy of the notice by registered or certified mail, return receipt requested, addressed to the person to be served and delivered to the addressee;

(3) By delivering a copy of the notice to any official, employee or agent of a corporation, partnership or business; or

(4) If, after a due and diligent effort, the person cannot be located, by posting a copy of the written notice in a prominent place upon the real property.

Section 3-1.5: **Removal or abatement of nuisances**

Upon investigation and discovery of any of the conditions deemed a nuisance, the code official or appointed designee shall make a written report of his findings and may order that appropriate corrective action be taken, including the removal or abatement of such conditions by the person creating the nuisance or by the owner, occupant or other person in possession of the premises on which the nuisance is located. Prompt abatement is required within 10 days from the receipt of such written notice.

Section 3-1.6: **Chronic Violator**

The Town may notify a chronic violator of the Town's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the Town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the Town gave notice of violation at least three times under any provision of the public nuisance ordinance.

State Law reference— Similar provisions, G.S. § 160A-200.1

Section 3-1.7: **Removal or abatement of other conditions**

Prior to ordering the removal of conditions which do not threaten the public safety or pose a general threat to the health, safety and general welfare of the citizens of the Town, the code official or appointed designee shall first determine that such conditions are visible from adjacent property or from a nearby street or highway and that the benefits of removing or correcting the conditions outweigh the burdens imposed upon the private property owner. Such findings shall be based upon a balancing of the monetary loss of the owner against the corresponding gain to the public by promoting or enhancing the community, neighborhood or area appearance, including protection of property values, indirect protection of public health and safety, preservation of the character and integrity of the community and the promotion of comfort and quality of life of area residents.

Section 3-1.8**: Appeal**

Within the time period stated in the notice to abate, the owner or occupant of the property where the nuisance exists may appeal the findings of the code official to the Board of Adjustment (BOA) by appearing before the BOA at the appeal hearing date and time given on said notice. The abatement of the nuisance will be postponed by the code official until the final determination for the appeal is made by the BOA. The BOA will need to make a 4/5 finding to overturn the code official's ruling. In the event no appeal is taken within the time period stated to abate, the code official may proceed to abate the nuisance.

Section 3-1.9: **Removal by Town**

If any person, having been ordered to abate a public nuisance pursuant to this chapter, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of such order, the designee may cause such condition to be removed or otherwise remedied by having employees of the Town or contracted work go upon such premises and remove or otherwise abate such nuisance under the supervision of an official or employee designated by the code official. Any person who has been ordered to abate a public nuisance may, within the time allowed by this chapter, request the Town, in writing, to remove such condition, the cost of which shall be paid by the person making such request. The Town may require such requestor to deposit some or all of the estimated cost of such removal prior to doing the work or may require the requestor to execute an agreement giving security for the payment of such costs.

Section 3-1.10: **Emergency action**

Notwithstanding the provisions of section 1.09, the code official or appointed designee shall have authority to summarily remove, abate or remedy or cause to be removed, abated or remedied, any condition that is dangerous or prejudicial to the public health or public safety.

Section 3-1.11: **Penalties**

(a) Any violation of the articles of this chapter shall subject the offender to a civil penalty in the amount of fifty dollars ($50.00). Violators shall be issued a written citation which must be paid within seventy-two (72) hours of receipt. Such citation shall be served by either first class mail, personal service or posted at the front door. Any of these methods of service shall be conclusively presumed to be valid, and no owner or occupant shall refuse service of the citation.

(b) Each day's continuing violation shall be considered a separate and distinct offense.

(c) Notwithstanding subsection (a) above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.

Section 3-1.12: **Right of entry**

The code official or appointed designee is hereby given full power and authority to enter upon the premises upon which a nuisance is found to exist under the provisions of this chapter for the purpose of abating the nuisance as provided in this chapter.

Section 3-1.13: **Cost of abatement declared lien**

(a) The actual cost incurred by the Town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the finance department or public services department to mail a statement of such charges to the owner or other person in possession of such premises, with instructions that such charges are due and payable within 30 days from the receipt thereof.

(b) If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes

(c) The procedure set forth in this chapter shall be in addition to any other remedies that may exist under law for the abatement of public nuisances, and this chapter shall not prevent the Town from proceeding in a criminal action against any person violating the provisions of this chapter.

(d) All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any part of this ordinance shall be adjudged invalid, such adjudication shall apply only to such part so adjudged and the remainder of the ordinance shall be deemed valid and effective.

State Law reference— Authority for abatement of public nuisances, G.S. § 160A-193.

SECTION 3-2. – ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES

Section 3-2.01: **Administration**

The police department, fire department, and code official of the Town shall be responsible for the administration and enforcement of this article. The police department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the Town and on property owned by the Town. The Town code official, with the assistance of the code official, Town planner, or fire department, shall be responsible for administering the removal and disposition of "abandoned," "nuisance" or "junked motor vehicles" located on private property. The Town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this article and applicable state laws. Nothing in this article shall be construed to limit the legal authority or powers of the Town police department and fire department in enforcing other laws or in otherwise carrying out their duties.

Section 3-2.02: **Definitions**

For the purpose of this article, certain words and terms are defined as herein indicated:

Abandoned vehicle: As authorized and defined in G.S.§160A-303, an abandoned motor vehicle is one (1) that:

(1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or

(2) Is left on a public street or highway for longer than seven (7) days; or

(3) Is left on property owned or operated by the Town for longer than twenty-four (24) hours; or

(4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two (2) hours.

Authorizing official: The supervisory employee of the police department or the code official, respectively, designated to authorize the removal of vehicles under the provisions of this article.

Motor vehicle or *vehicle:* All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Junked motor vehicle: As authorized and defined in G.S. §160A-303.2 the term, junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five (5) years old and appears to be worth less than five hundred dollars ($500.00).

Nuisance vehicle. A vehicle on public or private property that is determined and declared to be a health or safety hazard, or a public nuisance, or unlawful, including a vehicle found to be:

(1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or

(2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or

(3) A point of collection of pools or ponds of water; or

(4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor, visible presence; or

(5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, passenger interior, or other interior sections, etc.; or

(6) So situated or located that there is a danger of its falling or turning over; or

(7) One (1) which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or

(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or

(9) So offensive to the sight as to damage the community, neighborhood or area appearance; or

(10) Used by children in play activities; or

(11) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council.

Section 3-2.03**: Abandoned vehicle unlawful; removal authorized**

(a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.

(b) Upon investigation, proper authorizing officials of the Town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

Section 3-2.04: **Nuisance vehicle unlawful; removal authorized**

(a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(b) Upon investigation, the code enforcement office may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

Section 3-2.05: **Junked motor vehicle regulated; removal authorized**

(a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(b) Subject to the provisions of subsection (c), upon investigation, the code official may order the removal of a junked motor vehicle as defined in this article after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

(1) Protection of property values;

(2) Promotion of tourism and other economic development opportunities;

(3) Indirect protection of public health and safety;

(4) Preservation of the character and integrity of the community, and

(5) Promotion of the comfort, happiness and emotional stability of area residents.

(c) Permitted concealment or enclosure of junked motor vehicle: Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure means one which is erected pursuant to the lawful issuance of a zoning permit and a building permit which has been constructed in accordance with all zoning and building code regulations.

Section 3-2.06: **Declared to be a health or safety hazard**

Any partially dismantled or wrecked vehicle, vehicle which is incapable of self-propulsion or being moved in the manner for which it was originally intended, vehicle left on private property without the consent of the owner, occupant or lessee thereof, or any junk motor vehicle is declared to be an attractive nuisance for children, a breeding place for rats and vermin, and a potential fire hazard. All vehicles abandoned upon privately owned property, which have been abandoned for as long as 30 days are declared to constitute a health and safety hazard.

Section 3-2.07: **Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements**

Except as set forth in section 2.08 below, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner, or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, notice shall be given by first class mail (or any other method authorized for service by North Carolina Rules of Civil Procedure). The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to whom the notice is mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the Town on a specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

An order to remove abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, may be appealed by the registered owner or person entitled to possession to the BOA within the time period stated in the notice to remove by appearing before the BOA at the appeal hearing date and time given on the notice. Such appeal shall stay the order of removal until final determination by the BOA. The appeal shall consider the determination that the vehicle is abandoned, or in the case of a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens. In the event no appeal is taken within the time period stated in the notice to remove, the code official may proceed to remove the vehicle.

Section 3-2.08: **Exceptions to prior requirement**

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

(1) *Vehicles abandoned on the streets within the Town.* For vehicles left on the public streets or highways, the Town Council hereby determines that immediate removal of such vehicles therefrom for safekeeping by or under the direction of the police department, the department of planning and community development, or the department of public works, to a storage garage or area may be warranted when they are:

(a) Obstructing traffic;

(b) Parked in violation of an ordinance prohibiting or restricting parking;

(c) Parked in a no-stopping or standing zone;

(d) Parked in loading zones;

(e) Parked in bus zones, or;

(f) Parked in violation of temporary parking restrictions imposed under Code sections.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on Town-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare; therefrom for safekeeping by or under the direction of the police department, the department of planning and community development, or the department of public works, to a storage garage or area. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

Section 3-2.09: **Removal from private property.**

(a) Before any vehicle may be removed by the Town from private property as defined above to be abandon, junk or nuisance, the owner of the real property on which any such vehicle is located must be given at least five days' written notice from the Town of the vehicle removal. The owner may request in writing that the code official review the determination that the vehicle to be removed is in violation of the ordinance. No such vehicle shall be removed from privately owned premises without the written request of the owner, lessee or occupant of the premises on which the vehicle is located unless the vehicle has had the status of an abandoned vehicle on such privately owned premises for as long as 30 days and has, therefore, become a health and safety hazard in accordance with the declaration of the Council as set out in section 2.06. When a vehicle is removed from privately owned property at the request of a person, the person at whose request such vehicle is moved shall indemnify the Town against loss or expense incurred by reason of removal, storage or sale thereof.

Section 3-2.10: **Removal of vehicles; post-towing requirements.**

Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the Town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the Town. Whenever such a vehicle is removed, the authorizing Town official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

(1) The description of the removed vehicle;

(2) The location where the vehicle is stored;

(3) The violation with which the owner is charged, if any;

(4) The procedure the owner must follow to redeem the vehicle; and

(5) The procedure the owner must follow to request a probable cause hearing on the removal.

The Town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or agent.

If the vehicle is registered in North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing Town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (1) through (5) above.

Section 3-2.11: **Right to probable cause hearing before sale or final disposition of vehicle**

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated in G.S.§20-219.11(c) to receive such hearing requests, the magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. §20-219.11 as amended.

Section 3-2.12: **Redemption of vehicle during proceedings**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this article.

Section 3-2.13: **Sale and disposition of unclaimed vehicle**

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the Town and in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes, except no probable cause hearing in addition to the hearing provided for in Section 2.11 is required.

State Law reference— Disposal of abandoned, nuisance or junked motor vehicle, by tow truck operator or towing business, G.S. § Art.1, Ch. 44A.

Section 3-2.14: **General penalty**

Violation of any provision of this Code shall subject the offender to a civil penalty in the amount of fifty dollars ($50.00), to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within a period of seventy-two (72) hours after he has been cited for violation of the ordinance. Citation shall be in writing, signed by the code official and shall be delivered or mailed to the offender either at the residence or at the place of business or at the place where the violation occurred. Each day's continuing violation shall be a separate and distinct offense. Any action to recover such civil penalty may be joined in action for appropriate equitable or other legal remedy, including injunctions and orders of abatement and including an action to recover damages owing to the Town by reason of expenses incurred by the Town in abating, correcting, limiting and otherwise dealing with the harmful effects of the offending action.

Section 3-2.15: **Exceptions**

Nothing in this article shall apply to any vehicle:

(1) Regulated under G.S. § 160A-303.2 which is kept or stored at a bona fide "automobile graveyard" or "junkyard" as defined in G.S. § 136-143, in accordance with the "Junkyard Control Act," G.S. § 136-141, et seq., or the removing or disposing of any motor vehicle that is used on a regular basis for business or personal use; and

(2) Regulated under G.S. § 160A-303 which is in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town.

Section 3-2.16: **Unlawful removal of impounded vehicle**

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the Town any vehicle which has been impounded pursuant to the provisions of this Code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

State Law reference— Definition of junkyard, G.S. § 136-143, Junkyard Control Act, G.S. Junkyard Control Act, G.S. 136 136-141

Section 3-2.17**: Protection against criminal or civil liability**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this article.

Section 4: **Emergency Management**

Section 4.1: **Purpose**

The purpose of this chapter is to provide an avenue whereby the mayor of the Town of Hildebran can take action, on an emergency basis, to:

(a) Minimize the possible suffering of citizens or the potential for property damage by limiting access to certain areas.

(b) Limit the movement of objects or people during certain periods.

Section 4.2: **Territorial Applicability**

This chapter shall apply within the corporate limits of the town.

Section 4.3: **Penalty for Violation**

Any person violating any prohibition or restriction imposed by a declaration authorized by this chapter shall be subject to a civil fine as provided by sections 1.2 and 1.3 of this Code.

Section 4.4: **Determination of State of Emergency; Restrictions Authorized**

(a) A state of emergency shall be deemed to exist whenever, during times of public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety of property or whenever the occurrence of any such condition is imminent.

(b) In the event of an existing or threatened emergency which has the potential to endanger the lives, safety, health or welfare of the people within the town or any part thereof, or threatens damage to or destruction of property, the mayor is hereby authorized and empowered to issue a state of emergency declaration declaring to all persons the existence of such a state of emergency, and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions hereinafter authorized. The mayor will provide notification to all Council members and staff as soon as possible after such a declaration has been issued.

(c) The mayor is hereby authorized and empowered to establish and activate an emergency management organization to respond to the existence of such a state of emergency in order to more effectively protect the lives and property of people within the town.

(d) The mayor is hereby authorized and empowered to limit by declaration the application of all or any part of such restrictions to any area specifically designated or described within the town and to specific hours of the day or night; and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, commissioners, law enforcement officers, firemen, public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting and television

broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the town.

Section 4.5: **Declaration Imposing Prohibitions and Restrictions**

(a) The mayor, by declaration, may impose the prohibitions and restrictions specified in sections **4-5** through **4-9** in the manner described in those sections. The mayor may impose as many of the specified prohibitions and restrictions as are determined to be necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety and property. The mayor shall recite his findings in the declaration.

(b) The declaration shall be in writing. The mayor shall take reasonable steps to give notice of the terms of the declaration to those affected by it, including the media and emergency communications systems. The mayor shall retain a text of the declaration and furnish upon request certified copies of it for use as evidence. The mayor shall immediately notify the Town Council and staff of the issuance of the declaration.

Section 4.6: **Curfew**

(a) The declaration may impose a curfew prohibiting, in certain areas and during certain periods, the appearance in public of anyone who is not a member of an exempted class. The declaration shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies. The mayor may exempt from some or all of the curfew restrictions classes of people whose exemptions the mayor finds necessary for the preservation of the public health, safety and welfare. The declaration shall state the exempted classes and the restrictions from which each is exempted.

(b) Unless otherwise specified in the declaration, the curfew shall apply during the specified period each day until the mayor, by additional declaration, removes the curfew.

Section 4.7: **Restrictions on Possession, Consumption or Transfer of Alcoholic Beverage**

The declaration may prohibit the possession or consumption of any intoxicating liquor; including beer and wine, other than on one's own premises, and may prohibit the transfer, transportation, sale or purchase of any intoxicating liquor within the area of the town described in the declaration. The prohibition, if imposed, may apply to transfers of intoxicating liquor by employees of alcoholic beverage control stores as well as by anyone else within the geographical area described.

Section 4.8: **Restrictions on Possession, Transportation and Transfer of Dangerous Weapons and Substances**

(a) The declaration may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance**, *except lawfully possessed firearms and ammunition***. The mayor may exempt from some or all of the restriction's classes of people whose possession, transfer or transportation of certain dangerous weapons or substances is necessary to the preservation of the public health, safety or welfare. The declaration shall state the exempted classes and the restrictions from which each is exempted.

(b) For the purposes of this section, the term "dangerous weapon or substance" means:

(1) Any deadly weapon, ammunition, incendiary device, explosive, gasoline or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.

(2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so destructively used.

(3) Any part or ingredient in any instrument or substance included above.

(c) If imposed, the restrictions shall apply throughout the jurisdiction of the town or such part thereof as designated in the declaration.

Section 4.9: **Restrictions on Access to Areas**

(a) The declaration may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order, clearly posted notice or barricade indicating that access is denied or restricted.

(b) Areas to which access is denied or restricted shall be designated by the Town Deputy and the Burke County Sheriff's Office and specified in the declaration to do so by the mayor. When acting under this authority, the Town Deputy and the Burke County Sheriff's Office may restrict or deny access to any area, street, highway or location within the town if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

Section 4.10: **Effect of Declaration**

The declaration issued under this chapter may prohibit or restrict all or any of the following:

(a) Movements of people in public places.

(b) The operation of offices, business establishments and other places to or from which people may travel or at which they may congregate.

(c) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the declaration.

The declaration issued under this chapter may direct a voluntary or mandatory evacuation of all or part of the Town.

Rescue or any other emergency services may not be provided dependent upon the nature of the conditions during the time period when the state of emergency declaration is in effect.

Section 4.11: **Amendments of Declaration**

The mayor may amend or extend the declaration issued under this article from time to time, making such modifications as would have been authorized to include in the original declaration.

Section 4.12: **Removal of Prohibitions and Restrictions**

The mayor shall, by additional declaration, remove the prohibition and restrictions when it has been determined that the emergency no longer requires them, when emergency conditions have abated or when directed to do so by the Town Council.

Section 4.13: **Separate and Superseding Declarations**

The mayor, in his/her discretion, may invoke the restrictions authorized by this chapter in separate declaration, and may amend any declaration by means of superseding declaration.

Section 4.14: **Absence or Disability of Mayor**

In case of the absence or disability of the mayor, the mayor pro-tem shall have and exercise all of the powers given the mayor by this chapter.

Section 5: **Minimum Standards for Occupancy**

State Law reference— Municipal housing standards authorized, G.S. § 160D-Article 12.

DIVISION 1. - GENERALLY

Section 5-1.1.1: **Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit" and "premises" are used in this article, they shall be construed as though followed by the words "or any part thereof."

Accessory building or *outhouse* means a building or structure the use of which is incidental to that of the main building or structure and which is located on the same lot or a contiguous lot.

Alter or *alteration* means any change or modification in construction or occupancy.

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

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" shall be construed as if followed by the words "or part thereof."

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

Code/Building official means the official or other person charged with the administration and enforcement of this article or duly authorized representative.

Dwelling means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any temporary dwelling or any manufactured home or mobile home, which is used solely for a seasonal vacation purpose. "Manufactured home" or "mobile home" means a structure as defined in G.S. § 143-145(7).

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

Exit means a clear and unobstructed way of departure from the interior of a building or structure to the exterior at street or grade level.

Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food,

by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the official.

Floor area means the total area of all habitable space in a building or structure.

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

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments and laundries.

Infestation means the presence, within or around a dwelling of any insects, rodents or other pests.

Multiple dwelling means any building or portion thereof which is designed, built, rent, leased, let or hired out to be occupied or which is occupied as the home or residence of more than two (2) families living independently of each other and doing their own cooking in the building, and shall include flats and apartments.

Occupant means any person over one (1) year of age, living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

Openable area means that part of a window, porch or door which is available for unobstructed ventilation and which opens directly to the outdoors.

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

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

(1) Has title to any dwelling or dwelling unit, with or without accompanying actual possession thereof;

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

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

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

Premises means a lot, plat or parcel of land, including the buildings or structures thereon.

Public authority means any housing authority, or any official in charge of any department or branch of the government of the Town, the county or the state relating to health, fire or building regulations, or to other activities concerning housing in the Town.

Rooming/Boarding house means 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 two (2) or more persons, who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

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

Removal means the demolition and removal of the entire building, leaving the premises free and clear of any debris; any excavation properly filled in and with no holes or pockets which retain water.

Rubbish means combustible or noncombustible waste materials except garbage, including but not limited to, the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust, and discarded appliances.

Story means that part of a building between one (1) floor and the floor or roof next above.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."

Substandard means any condition existing in any housing or structure which does not meet the standards of fitness of this article.

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

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable (i.e. Motor home) and which is not attached to the ground, to another structure or to any utilities system on the same premises legally for more than sixty (60) consecutive days.

Unfit for human habitation means that conditions exist in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness established by this article.

Ventilation means the insufflation and the exsufflation of air by natural means to and from housing.

Ventilation, mechanical means ventilation by power-driven devices.

Ventilation, natural means ventilation by opening to outer air through windows, sky-lights, doors, louvers or stacks with or without wind-driven devices.

Section 5-1.1.2: **Findings; purpose**

The Town Council finds and declares that there now exists in the Town and may reasonably be expected to exist in the future, housing which is unfit for human habitation because of dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, adequate lighting or sanitary facilities; or because of conditions rendering such housing unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the Town and its area of jurisdiction; and that a public necessity exists to exercise police powers of the Town pursuant to G.S. § Ch. 160A, art. 19, and other applicable laws, as now or hereafter amended, to cause the repair and rehabilitation, closing or demolishing of such housing in the manner provided in this article; and pursuant to the exercise for the police power, the Town Council finds as fact and so declares that the ensuing sections of this article are necessary to the implementation of its purposes hereinabove declared in this section and that, specifically, but without limitation, the minimum standards of fitness for dwellings and dwelling units, as enacted in this article are reasonable and necessary for this community and are all reasonable and necessary criteria for determining whether dwellings and dwelling units in this Town are fit for human habitation.

State Law reference— Similar provisions, G.S. § 160D-1201.

Section 5-1.1.3: **Conflicts**

The provisions of this article shall not be construed to conflict with any other applicable laws, codes or ordinances pertaining to housing, but are supplemental thereto and where the provisions of this article are similar to provisions of other applicable codes or ordinances, the more stringent provisions shall apply.

Section 5-1.1.4: **Scope**

(a) Every building used in whole or in part as a dwelling unit or as two (2) or more dwelling units, or as a rooming house or boardinghouse, shall conform to the requirements of this article irrespective of the primary use of such building, and irrespective of when such building may have been constructed, altered or repaired.

(a) This article establishes minimum standards for occupancy and does not replace or modify standards otherwise established for construction, replacement or repair of buildings except such as are contrary to the provisions of this article.

(b) In addition to the exercise of police power authorized in this article with respect to dwellings, the Town shall cause to be repaired, closed or demolished any abandoned structure which the Council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous condition constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. The repair, closing or demolition of such structures shall be pursuant to the same provisions and procedures as are prescribed in this article for the repair, closing or demolition of dwelling found to be unfit for human habitation.

Section 5-1.1.5: **Alternative remedies**

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action, or otherwise, or to enforce this article by criminal process or otherwise, and the enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedy or remedies provided in this Code or in other ordinances or laws.

State Law reference— Similar provisions, G.S. § 160D-1212.

Section 5-1.1.6: **Removed**

Section 5-1.1.7: **Methods of service of complaints and orders**

Complaints or orders issued by the official shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the official, he shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two successive weeks in a newspaper, printed and published in the Town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

Section 5-1.1.8: **Compliance**

Town of Hildebran
Code of Ordinances

Every dwelling and dwelling unit used as a human habitation or held out for use as a human habitation shall comply with all of the requirements of this article. No person shall occupy as a human habitation any dwelling or dwelling unit which does not comply with all of the requirements of this article.

Section 5-1.1.9: **Space use**

The minimum standards for space use are as follows:

(1) A principal area shall have not less than one hundred fifty (150) square feet.

(2) A kitchen-dining room combination, if any, shall have not less than one hundred (100) square feet.

(3) A first bedroom, if any, shall have not less than one hundred (100) square feet.

(4) A second bedroom, if any, shall have not less than seventy (70) square feet.

(5) Each habitable room shall have at least seventy (70) square feet.

(6) At least one hundred fifty (150) square feet of floor space in habitable rooms shall be provided for the first occupant in each dwelling unit; at least one hundred (100) square feet of additional floor space shall be provided for each of the next three (3) occupants; and at least seventy-five (75) square feet of additional floor space shall be provided for each additional occupant over the number of four (4) (children one (1) year of age and under shall not be counted).

(7) At least seventy (70) square feet of bedroom floor space shall be provided for the first occupant; at least twenty (20) square feet of additional bedroom floor space shall be provided for the second occupant; and at least thirty (30) square feet of additional bedroom floor space shall be provided for each occupant over the number of two (2) (children one year of age and under shall not be counted).

(8) Those habitable rooms which must be included to meet the foregoing minimum space standards shall be at least seven (7) feet wide in any part with at least one-half of the floor area having a ceiling height of at least seven (7) feet. That portion of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area.

(9) No basement space shall be used as a habitable room or dwelling unit unless:

(a) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness.

(b) The total of window area in each room is equal to at least the window area sizes prescribed in the following section for habitable rooms.

(c) The total of openable window area in each room is equal to at least the room area prescribed in the following section for habitable rooms, except where there is supplied some other device affording adequate ventilation approved by the director of inspections.

(10) Toilet and bathing facilities shall be structurally enclosed and shall be located so as not to require passage through an openable area.

(11) Bathroom walls, toilet room walls and bedroom walls shall have no holes or excessive cracks.

(12) Access shall be provided to all rooms within a dwelling unit without passing through a public space or another dwelling unit.

(13) Doors shall be provided at all doorways leading to bedrooms, toilet rooms, bathrooms and at all rooms adjoining a public space.

(14) Each living unit shall have a specific kitchen space, which contains a sink with counter workspace and has hot and cold running water and adequate space for storing cooking utensils.

(15) Electric, water and sewer must be in working order.

Section 5-1.1.10: **Light and ventilation**

The minimum standards for light and ventilation are as follows:

(1) Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area measured between stops for every habitable room shall be eight (8) percent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light obstruction structures are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, they shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) percent of the total floor area of such room.

(2) Every room in a dwelling unit and means of egress shall be sufficiently illuminated so as to provide safe and satisfactory uses.

(3) Year-round mechanically ventilating systems may be substituted for windows, as required herein, but must be approved by the code official, in rooms other than rooms used for sleeping purposes.

(4) All outside windows and doors used for ventilation shall be screened.

(5) All windows and doors shall be made weather tight.

(6) Windows and doors shall have no broken glass and shall have adequate operable locks and hardware.

(7) Openable window area in each toilet room shall be at least two (2) square feet, unless served by mechanical ventilation.

(8) Natural ventilation of spaces such as attics and enclosed non-basement space shall be provided by openings of sufficient size to overcome dampness and to minimize the effect of conditions conducive to decay and deterioration of the structure, and to prevent excessive heat in attics.

(9) Utility spaces containing heat-producing, air-conditioning and other equipment shall be ventilated according to manufacturer's requirements.

(10) Mechanical ventilation shall be of sufficient size to eliminate dampness and odors of the area it is serving.

Section 5-1.1.11: **Exits**

(a) Two (2) main exits, each at least thirty (30) inches wide and six (6) feet eight (8) inches high, easily accessible to the occupants of each housing unit, shall be provided, unless a single exit is permitted as an exception by provisions of the state building code, as from time to time amended. All exit doors shall be easily operable.

(b) Platforms, steps and/or handrails shall be provided to serve exits and maintained in a safe condition.

Section 5-1.1.12: **Plumbing**

The minimum plumbing standards are as follows:

(1) The plumbing systems shall be connected to the Town sanitary sewer system, where available; otherwise, the plumbing system shall be connected onto an approved septic tank.

(2) All plumbing fixtures shall meet the standards of the Town plumbing code and shall be maintained in a state of good repair and in good working order.

(3) There shall be provided a hot water heater (minimum thirty-gallon capacity) furnishing hot water to each tub or shower, lavatory and kitchen sink.

(4) Installed water supply inside the building shall be provided for each housing unit.

(5) Installed water closet, tub or shower, lavatory and sink shall be provided for each dwelling unit.

(6) Separate toilet facilities shall be provided for each dwelling unit.

(7) Toilet and bathing facilities shall be structurally protected from the weather.

(8) All water piping shall be protected from freezing by proper installation in protected space.

(9) At least one (1) main vent of a minimum diameter of two (2) inches shall be properly installed for each building.

(10) Sewer and water lines shall be properly supported with no broken or leaking lines.

Section 5.1.1.13: **Heating**

The minimum heating standards are as follows:

(1) Reserved.

(2) Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms and bathrooms in every dwelling unit located therein to a temperature of at least sixty-eight (68) degrees Fahrenheit at a distance three (3) feet above floor level, under ordinary minimum winter conditions.

(3) All gas-heating and oil-heating equipment installed on the premises shall be of a type approved by Underwriters' Laboratories or by the American Gas Association and shall be installed in accordance with the provisions of the state building code.

(4) Liquid fuel stored on the premises shall be stored in accordance with the provisions of the National Fire Prevention Association standards.

(5) Chimneys and fireplaces shall have no loose bricks.

(6) Flues shall have no holes.

(7) There shall be no hanging masonry chimneys.

(8) Thimbles shall be grouted in tight.

(9) Thimbles shall be installed high enough for stovepipe to rise one-fourth inch per foot minimum.

(10) Hearths shall be at least twenty (20) inches deep and seven (7) inches beyond each side of the fireplace opening.

(11) No combustible materials shall be within seven (7) inches beyond each side of the fireplace opening.

(12) If the fireplace opening is closed because of hazardous conditions, the closure shall be of masonry or other approved material as determined by the code official.

(13) Any stove shall be within six (6) feet of the thimble serving it.

(14) Stovepipes and vents shall comply with volume 3 of the state building code.

(15) No unvented combustible space heaters shall be used.

State Law reference - G.S. §160D-1204

Section 5-1.1.14: **Electricity**

The minimum electrical standards are as follows:

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles, which shall be connected in such manner as determined by the *National Electric Code,* as adopted by the Town.

(2) No receptacles, ceiling fixtures or other fixtures shall be broken or hanging loose.

(3) All toggle switches and fixtures shall be safely operable.

(4) At least two (2) duplex convenience outlets, as remote from each other as practicable, shall be provided per habitable room.

(5) At least one (1) light outlet in each bathroom, hall, kitchen and porch, and over exterior steps to the second floor shall be provided.

(6) There shall be no bare wires, open joints or spliced cables.

(7) Flexible cords shall not be used as a substitute for the fixed wiring of a structure, nor shall flexible cords be run through holes in walls, ceilings or floors, through doorways, windows, or similar openings, or be attached to building surfaces or concealed behind building walls, ceilings or floors.

(8) No branch circuits shall be overloaded.

(9) A minimum of three (3) branch circuits, plus separate circuits for each fixed appliance, shall be provided in each dwelling unit.

(10) There shall be provided service equipment and a lighting panel of adequate capacity and size (minimum of sixty-ampere capacity) to accommodate the existing or the required number of branch circuits, and the equipment shall be properly grounded.

(11) Outlets in kitchens and bathrooms shall be ground-fault interrupter device protected.

(12) All residences shall have a smoke detector on each livable floor. The property owner shall be responsible for installing a fresh battery with change in tenants; the tenant shall be responsible for maintaining the unit and shall not commit any act that shall render the unit inactive.

(13) All rental dwelling units having a fossil fuel burning heater or appliance or fireplace shall provide a minimum of one operable carbon monoxide detector per unit per level. A carbon monoxide detector is also required for an attached garage. The landlord shall install, replace or repair the carbon monoxide monitor(s) unless the landlord and tenant have a written agreement to the contrary.

Section 5-1.1.15: **Structural requirements**

The minimum structural standards shall be as follows:

(1) *Foundation:*

a. A foundation shall support the building at all points and shall be free of holes and cracks which admit rodents, water or dampness to the interior of the building or which lessen the capability of the foundation to support the building.

b. The foundation shall be on firm, reasonably dry ground, and there shall be no water standing or running under the building.

c. Footings shall be sound and have adequate bearing capacity.

d. Piers shall be sound.

e. No wood stiff knees or other improper piers shall be allowed.

f. All structures shall be underpinned or enclosed in an approved manner, such as aluminum, galvanized, asbestos or masonry.

(2) *Floors:*

a. No rotted or termite-damaged sills shall be allowed.

b. No broken, overloaded or sagging sills shall be allowed.

c. Sills shall be reasonably level.

d. Sills shall be properly and sufficiently supported.

e. Sills shall clear the ground by at least eighteen (18) inches.

f. No rotted or termite-damaged joists shall be allowed.

g. No broken or sagging joists shall be allowed.

h. Flooring shall be weathertight without holes or cracks which permit air to excessively penetrate rooms.

i. Flooring shall be reasonably smooth, not rotten or worn through.

j. No loose flooring shall be allowed.

k. Floors shall be reasonably level.

(3) *Walls, exterior:*

a. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

b. No studs which are rotted or termite-damaged shall be allowed.

c. No broken or cracked structural members shall be allowed.

d. No loose siding shall be allowed.

e. Walls used as partitions shall not lean or buckle.

f. No deteriorated siding or covering shall be allowed.

(4) *Walls, interior:*

a. The interior finish shall be free of holes and cracks, which permit air to excessively penetrate rooms.

b. No loose plaster, loose boards or other loose wall materials shall be allowed.

c. There shall be no cardboard, newspaper or other highly combustible material allowed as a wall finish.

d. No studs shall be rotted or termite-damaged.

e. No broken or cracked studs or other broken or cracked structural members shall be allowed.

(5) *Ceilings:*

a. No joists shall be rotted, broken or sagging or have improperly supported ends.

b. There shall be allowed no holes or cracks, which permit air to excessively penetrate rooms.

c. No loose plaster, loose boards, loose sheetrock or other loose ceiling finish shall be allowed.

d. There shall be allowed as ceiling finishes no cardboard or other highly combustible material.

(6) *Roofs:*

a. Rafters shall not be rotted, broken or sagging or have improperly supported ends.

b. No rafters seriously fire-damaged shall be allowed.

c. Attics shall be properly vented.

d. No rotted, loose or sagging sheathing shall be allowed.

e. No loose roof covering shall be allowed nor shall there be allowed any holes or leaks, which could cause damage to the structure or rooms.

f. Walls and chimneys shall have proper flashing.

(7) *Stairs and steps:*

a. Stairs and steps shall be free of holes, grooves and cracks large enough to constitute accident hazards.

b. Stairwells and flights of stairs more than four (4) risers or having risers more than thirty (30) inches high shall have rails not less than two (2) feet six (6) inches measured vertically from the nose of the treads to the top of the rail.

c. Every rail shall be firmly fastened and maintained in good condition.

d. No flight of stairs settled more than one (1) inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.

e. No rotting, sagging or deteriorated supports shall be allowed.

(8) *Porches and appurtenances:*

a. Every outside and inside porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be kept in sound condition and good repair.

b. Protective railings shall be required on any unenclosed structure over three (3) feet from the ground level.

(9) *Accessory structures:* All accessory buildings and structures, including detached garages, shall be maintained structurally sound and in good repair or shall be raised to grade level and the debris therefrom removed from the premises.

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

Section 5-1.1.16: **Property maintenance**

The minimum property maintenance standards are as follows:

(1) *Buildings and structures:*

a. Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative, with sufficient frequency to prevent deterioration.

b. Floors, walls, ceilings and fixtures shall be maintained in a clean and sanitary condition.

(2) *Public areas:* Every owner of a structure 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 structure and premises thereof.

(3) *Rubbish and garbage:* Every person who occupies and controls a dwelling unit shall dispose of all rubbish and garbage in a clean and sanitary manner by placing it in proper storage facilities.

(4) *Premises:*

a. Fences and other minor structures shall be maintained in safe and substantial condition.

b. Yards and courts shall be kept clean and free of physical hazards, rubbish, trash and garbage.

c. No heavy undergrowth or accumulations of plant growth which are noxious or detrimental to health shall be allowed.

d. Every premises shall be provided with all-weather vehicular access to and from the premises at all times by an abutting public or private street.

e. Walks and steps, constructed so as to provide safety, reasonable durability and economy of maintenance, should be provided for convenient all-weather access to the structure.

f. Access to the rear yard from each dwelling unit shall be required. Such access is not, however, acceptable where it is dependent upon passage through another dwelling unit. Each building shall be provided with access to the rear yard. This access for a detached dwelling shall be directly from a street.

g. Any nonresidential use of the premises shall be subordinate to its residential use and character.

(5) *Infestation:*

a. Premises, buildings and structures shall, by generally accepted methods of extermination, be maintained free of vermination and rodent harborage and infestation.

b. Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement or cellar, which might provide an entry for rodents, shall be supplied with screens installed or with such other approved devices as will effectively prevent entrance by rodents.

c. Every head-of-household occupant of a structure containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every head-of-household occupant of a dwelling unit in a structure containing more than one (1) dwelling unit shall be responsible for such extermination whenever the dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a structure in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any structure or in the shared or public parts of any structure containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

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

(7) *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.

(8) *Care of facilities, equipment and structure:* No occupant shall willfully destroy, deface or impair any of the facilities or equipment of any part of the structure of a dwelling or dwelling unit.

Section 5-1.1.17-18: **Removed**

Section 5-1.1.19: **Refusal to permit entry for inspection**

It shall be unlawful for any owner or person in possession of premises on which housing is located in the Town to refuse, after being presented with a warrant, as issued in accordance with state law, to permit the code official or duly appointed agents to enter upon the premises for the purpose of making examinations as authorized by this article. Violation of this section shall subject the offender to a civil penalty.

State Law reference— Similar provisions, G.S. §15-27.2

Sections 5-1.1.20 - 5-1.1.25: **Reserved.**

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Section 5-1.2.1: **Method of serving complaints, orders**

Complaints or orders issued by the code official or designee under this article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public official in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the public official makes 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 the Town at least once no later than the time at which personal service would be required under the provisions of the part. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

State Law reference— Similar provisions, G.S. § 160D-1203.

Section 5-1.2.2: **Dwellings in violation; preventive action or proceeding**

If any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this article or any valid order or decision of the official made pursuant to this article, the official may institute any appropriate action or proceeding to prevent the unlawful erection,

construction, reconstruction, alteration or use, to restrain, correct or abate the violation, to prevent the occupancy of the dwelling or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

State Law reference— Similar provisions, G.S. § 160D-1208(e).

Section 5-1.2.3: **Petition for temporary injunction.**

Any person aggrieved by an order issued by the official may petition the superior court for an injunction restraining the official from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the official pending a final disposition of the case. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition with twenty (20) days, and shall be given preference over other matters on the court calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction.

State Law reference— Similar provisions, G.S. § 160D-1208(d)

Section 5-1.2.4: **Enforcement by the code official; assistance from Town agencies, departments**

(a) The code official shall be responsible for the enforcement of this article.

(b) The code official shall have authority to request the advice and assistance of the Town planning board, the housing authority, the fire department, the health department, and any other public authority may be deemed appropriate, in determining those areas of the Town in which substandard housing may be prevalent, and designate and schedule such areas for comprehensive inspection under this article. This procedure shall be in addition to regular, Town wide inspections under this article.

Section 5-1.2.5: **Powers of Code Official**

The code official is authorized to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others granted:

(1) To investigate the dwelling conditions in the Town in order to determine which dwellings therein are unfit for human habitation;

(2) To administer oaths; affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of officials, agents and employees necessary to carry out the purposes of the ordinances;

(5) To delegate any of the functions and powers under the ordinance to other officials and other agents.

State Law reference— Similar provisions, G.S. § 160D-1210.

Section 5-1.2.6: **Issue of complaint; hearing; determination of unfit dwelling; abatement procedure**

(a) Whenever a petition is filed with the code official by a public authority or by at least five (5) residents of the Town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the official that any dwelling or dwelling unit is unfit for human habitation, the code official shall, if the preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the official, at a place within the county, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have 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. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the official.

(b) If after such notice and hearing the official determines that the dwelling under consideration is unfit for human habitation, the code official shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owners an order as follows:

(1) If the repair, alteration or improvement of the dwelling can be made at a cost not to exceed fifty (50) percent of the value of the dwelling, requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to

render it fit for human habitation or to vacate and close the dwelling as a human habitation;

(2) If the repair, alteration or improvement of the dwelling cannot be made at a cost not to exceed (50) percent of the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish such dwelling.

(3) If a house has been closed and/or boarded, for a period of one year or longer, after being closed following proceedings under the substandard housing regulations and Town Council determines that the owner has abandoned the intent and purpose to render it fit for human habitation and that continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the community in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would cause or contribute to blight and deterioration of property values in the area, then in such circumstances, the Town Council may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty (50) percent of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days; or,

b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty (50) percent of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.

(c) The official is authorized to fix the reasonable value of any housing and to estimate the cost of repairs, alterations or improvements for the purposes of this section.

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

(e) If the owner fails to comply with an order to remove or demolish the dwelling, the official may cause such dwelling to be removed or demolished; provided, however, that the powers of the official set forth in subsection (d) and this subsection shall not be exercised until the Town Council has, by ordinance, ordered the official to proceed to effectuate the purpose of this article with respect to the particular property or properties, which the official has found to be unfit for human habitation and which shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. Such ordinance shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.

(f) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the official, 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 G.S. § Ch. 160A, art. 10. If the dwelling is removed or demolished by the official, he shall sell the materials of such dwelling, any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the official, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(g) If any occupant fails to comply with an order to vacate a dwelling, the public official may file a civil action in the name of the Town 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 ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the public official produces a certified copy of an ordinance adopted by the governing body pursuant to subdivision (e), authorizing the official to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for

summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the governing body has ordered the public official to proceed to exercise duties under paragraphs (d) and (e) of this section to vacate and close or remove and demolish the dwelling.

(h) Any violation of this section shall additionally subject the offender to a civil penalty to be recovered by the Town pursuant to section 1-7.

State Law reference— Abatement procedures, G.S. § 160D-1203.

Section 5-1.2.7: **Appeals from orders of Code Official**

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

(b) The board of adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and render its decision within a reasonable time. Any party may

appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the official, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the official. The board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the 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.

State Law reference— Similar provisions, G.S. § 160D-1208.

Section 5-1.2.8: **Petition to superior court**

Any person aggrieved by an order issued by the official or a decision rendered by the board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the official pending a final disposition of the cause.

State Law reference— Similar provisions, G.S. § 160D-1208.

Section 5-1.2.9: **Unauthorized removal of posted complaint, notice or order**

No person without the written consent of the Town manager or appointed agent shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this article. Any person violating or failing to comply with the provisions of this section shall be guilty of a misdemeanor.

Section 5-1.2.10: **Renting unfit dwelling after notice**

When the official finds that a dwelling is unfit for human habitation within the meaning of this article and has notified the owner to such effect and the time limit set by the official for the repair, alteration, improvement, removal, demolition or vacating and closing the same has expired, no person shall receive rentals or offer for rent or occupancy such dwelling or dwelling unit as a human habitation until such time as the order of the official is obeyed or reversed by a court of competent jurisdiction in accordance with the law. Each day such offense continues

shall be deemed separate offense. Any violation of this section shall subject the offender to a civil penalty.

Section 5-1.2.11: **Certificate of occupancy**

(a) The Town shall not provide, nor permit another to provide, either public or private utility services such as water, gas, electricity, sewer, etc., to any dwelling unit becoming vacant until such dwelling unit has been inspected, brought into compliance with this article and a valid certificate of occupancy, as required, has been issued. This requirement shall not preclude the temporary use of such utility services for alteration. The building official shall be responsible for making the determination as to when such temporary services may be necessary.

(b) No certificate of occupancy may be issued for any single-family or multi-family residential building on which construction is begun on or after January 1, 1978, until it has been certified as being in compliance by the energy and insulation official with the minimum insulation standards for residential construction, as prescribed in the state building code.

(c) For structures built prior to 1978 and no insulation exists, the attic shall be insulated to an R-30 value. If insulation exists in a structure built before 1978, it must have an R-19 value.

(d) It shall be unlawful for any person to occupy, or allow another to occupy, or offer for rent, a dwelling or dwelling unit until a valid certificate of occupancy has been issued.

Section 5-1.2.12: **Changes in work after permit issued**

After a permit has been issued, no changes or deviations from the terms of the application and permit or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter shall be made until specific written approval of such changes or deviations has been obtained from the appropriate official.

Section 5-1.2.13: **Violations; penalty**

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 or demolish the same, upon order of the official duly made and served as provided in this article, within the time specified in the order. Each day that any such failure, neglect or refusal to comply with such order continues

shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to this division, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement, or its vacation and closing, or removal or demolition. Each day that such occupancy continues after the prescribed time shall constitute a separate and distinct offense.

Sections 5-1.2.14 – 5-1.2.20: **Reserved**

ARTICLE 2. – MINIMUM STANDARDS FOR NON-RESIDENTIAL BUILDINGS

Section 5-2.1: **Exercise of police powers; authority**

The Town Council hereby finds and declares that there exists within the Town limits and its environs unsafe structures which are a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities In order to alleviate these unsafe and dangerous conditions for the health, safety, and welfare of the citizens and its environs, a public necessity exists to exercise the police powers conferred upon the Town for the repair, closing or demolition of such structures.

Section 5-2.2: **Definition of abandoned and/or unsafe structure**

An abandoned and/or unsafe structure is defined as a nonresidential building or structure which has not been occupied by authorized persons for at least six (6) months and which persistently or repeatedly becomes unprotected or unsecured, or which has been occupied by unauthorized persons, or which presents a danger of structural collapse, fire, disease, or a threat to children.

Section 5-2.3: **Procedure for enforcement**

(a) *Duty of code official.* It shall be the duty of the code official to examine non-residential structures located in the Town and its environs where conditions described in section 4-101 exist for the purpose of locating and taking action with respect to such structures as

appear to be a health or safety hazard. In exercising this power, department members shall have the right to enter on any premises within the jurisdiction of the department at all reasonable hours for purposes of inspection or other enforcement action, upon presentation of proper credentials.

(b) *Notice of complaint.* If the inspection discloses health or safety hazards as described in this article, the official shall affix a notice of unsafe character in a conspicuous place on the exterior wall of the structure giving notice of its unsafe or dangerous conditions and cause to be served upon the owner of and parties in interest to the structure a complaint stating the charges and containing a notice. If the owner of a building or structure that has been condemned as unsafe pursuant to G.S.§160A-426 shall fail to take prompt corrective measures, the official shall give him written notice, by certified or registered mail to the last known address or by personal service, that the building or structure is in a condition that appears to meet one or more of the following conditions:

(1) Constitutes a fire and safety hazard;

(2) Is dangerous to life, health, or other property;

(3) Is likely to cause or contribute to blight, disease, vagrancy or danger to children; or

(4) Has a tendency to attract person/s intent on criminal activities or other activities which would constitute a public nuisance.

A hearing will be held before the official at a designated place therein fixed, not less than ten (10) nor more than thirty (30) days after serving of said complaint. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy there of is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the Town at least once, not later than one week prior to the hearing.

No oversight or dereliction of duty on the part of any official or employee of the Town shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code adopted in this chapter.

(c) *Hearing.* The owner or any party in interest shall have 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. Any person desiring to do so may attend the hearing and give

evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the official.

(d) *Procedure after hearing.* After such hearing, if the official finds that a structure constitutes a health or safety hazard, the code official shall state in writing the findings of fact in support of such determination. In such case, the official shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, close, vacate or demolish the structure as necessary to correct the health or safety hazard within a specified period of time.

Section 5-2.4: **Appeal; finality of order if not appealed**

Any owner who has received an order under G.S. § 160D-1122 may appeal from the order to the Board of Adjustment by giving notice of appeal in writing to the official and to the Town clerk within ten days following issuance of the order. In the absence of an appeal, the order of the official shall be final. The Board of Adjustment shall hear and render a decision in an appeal within a reasonable time. The Board of Adjustment may affirm, modify and affirm, or revoke the order

Section 5-2.5: **Securing, closing and demolition by the Town**

If the owner fails to comply with an order of the official to repair, secure and close, vacate or demolish, the official shall take one (1) or more of the following actions as necessary:

(a) Secure the issuance of a warrant charging such owner with violation of this article;

(b) Secure and close said structure;

(c) Cause such structure to be repaired, altered or improved; or

(d) Cause such structure to be demolished.

State Law reference— Similar provisions, G.S. § 15-27.2

Section 5-2.6: **Actions by Town Council**

(a) The powers of the official as set forth in section 4-103(c) and (d) shall not be exercised until the Town Council has by ordinance ordered the official to proceed to effectuate the purpose of this article with respect to the particular property or properties, which the

official has found to be a health or safety hazard and which shall be described in the ordinance. Such ordinance shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.

(b) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the official, 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 G.S. § Ch. 160A, Art. 10. If the structure is removed or demolished by the official, he shall sell the materials of such structure, any personal property, fixtures or appurtenances found in or attached to the structure, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the official, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

Section 5-2.7: **Failure to comply with order**

If the owner of a building or structure fails to comply with an order issued pursuant to G.S.§160D-1122 from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he shall be subject to a civil penalty to be recovered by the Town pursuant article G.S.§ 14-4.; Every day such person shall willfully fail or refuse to comply with any final order or direction of the code official or Town Council made by virtue and in pursuance of this article shall constitute a separate and distinct offense.

Section 5-2.8: **Lien on property**

The amount of the cost of such repair, alterations, improvements, vacating and closing, or demolition ordered by the Town Council or by the official shall be a lien against the real property upon which such cost was incurred; said lien shall be filed, have the same priority and be collected or foreclosed upon in the same manner as is provided for assessments pursuant to G.S. § Ch. 160A, Art. 10.

Section 5-2.9: **Other unlawful actions**

(a) No person shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of section 4-103 of this article.

(b) It shall be unlawful for the owner of any building upon whom a notice, complaint or order has been served, to sell, transfer, mortgage, lease or otherwise dispose of said building unless one of the following actions have been taken:

(1) Compliance with the provisions of the notice, complaint or order; or

(2) Furnish a copy of any notice, complaint or order to the transferee, lessee, or mortgagee, and give written notice to the official of said action.

Section 5-2.10: **Alternative remedies**

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisance and to cause their abatement by summary action or otherwise, or the enforcement of any other remedy or remedies provided or in other ordinances of laws.

Section 5-2.11: **Conflicts with other provisions**

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

Section 5-2.12: **Unsafe buildings condemned**

An official may declare a nonresidential building or structure within a community development target area designated by the Town Council, or within a development zone authorized by G.S. § 105-129.3A or G.S. §160A-503(10) to be unsafe if it meets both of the following conditions:

(1) It appears to the official to be vacant or abandoned; and

(2) It appears to the 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 tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

Section 5-2.13: **Appeals in general**

Unless otherwise provided by law, appeals from any order, decision or determination by a member of a local inspection department pertaining to the state building code or other state

building laws shall be taken to the commissioner of insurance or appointed designee or other official specified in G.S. § 143-139, by filing a written notice with him and with the inspection department within a period of ten days after the order, decision or determination. Further appeals may be taken to the state building code council or the courts as provided by law.

Section 5-2.14: **Changes in work after permit issued**

After a permit has been issued, no changes or deviations from the terms of the application and permit or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter shall be made until specific written approval of such changes or deviations has been obtained from the appropriate official.

Section 5-2.15: **Report of owner's failure to comply with Code Official's order**

If the owner does not appeal from the final order or direction of the code official requiring that the building or structure be demolished and removed or the taking of such other steps as may be required to abate the nuisance and remove the hazards, and fails or refuses to comply with such order and direction, it shall be the duty of the official to file a written report thereof with the Town manager, who shall cause such report to be placed on the agenda for action by the Town Council at its next ensuing regular meeting or at some subsequent meeting to which the Town Council may continue the same. The code official shall mail a copy of such report by certified or registered mail to the owners last known address or have a copy of such report delivered to such owner. Such report shall specify the date of the meeting of the Town Council for which the matter will be docketed for action.

Sections 5-2.16 - 5-2.20: **Reserved**

Town of Hildebran
Code of Ordinances

Adoption

Upon its adoption, this Code of Ordinances shall repeal and replace any or all previous ordinances of a like nature.

Adopted upon the first reading, this 24th day of June, 2024.

_____
Wendell Hildebrand, Mayor

ATTEST:

_____
Alice Sanders, Town Clerk