CHAPTER ___ MINIMUM HOUSING AND NON-RESIDENTIAL BUILDING STANDARDS

SECTION 1. AUTHORITY

Pursuant to NCGS Chapter 160D, and other applicable law, Caldwell County hereby establishes these Ordinances.

SECTION 2. PURPOSE

(a) To establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as authorized by NCGS 160D-1205.

(b) The existence and occupation of dwellings unfit for human habitation are inimical to the welfare of, and dangerous and injurious to the health and safety of, the people of the County. A public necessity exists for the repair, closing or demolition of such dwellings, as allowed by NCGS 160D-1201.

(c) The County finds there exists within the County non-residential buildings and structures which fail to meet minimum standards of maintenance, sanitation, and safety, and which result in conditions dangerous and injurious to public health, safety, and welfare, and which may result in the need for repair, closing or demolition of such buildings pursuant to NCGS 160D-1129.

(d) Pursuant to NCGS 160D-1201, it is hereby found and declared there exists in the County dwellings unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, accumulations of garbage, trash and/or rubbish on the premises, or overgrowth adversely affecting the health, safety and/or well-being of the occupants, or other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health and welfare of the people of the County.

(e) The provisions of this Ordinance shall apply to all residential and non-residential Buildings and Structures within the County regardless of when constructed.

(f) To protect the health, safety, and welfare of the people of the County, this Chapter establishes minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by State Law.

SECTION 3. JURISDICTION

The provisions of this Ordinance are applicable to all places of human habitation within the planning jurisdiction of the County, as well as any portion of a planning jurisdiction of any municipality where an interlocal agreement is established in accordance with State Law, without regard to when they were constructed, altered, repaired, or improved.

SECTION 4. DEFINITIONS

When used in this Chapter, the following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where context clearly indicates a different meaning:

Abandoned and/or Unsafe Structure means a non-residential Building or Structure which has not been occupied by authorized persons for at least six 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 people.

Accessory Dwelling Unit means a residential dwelling unit, but not a mobile home, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Secondary dwelling units shall be developed in accordance with the standards set forth in the NC Building Code for Residential Dwellings and only in those zoning districts where the use is listed.

Agent means any person, firm, or corporation, who is responsible for the management, maintenance, operation, renting, leasing, or sale of any property, who makes an application for or seeks a permit on behalf of the Owner of any property, or who in any other way represents the owner of the property in any case.

Alteration means a change in or rearrangement of structural components.

Apartment means a room or suite of rooms occupied, or which is intended or designed to be occupied as the home or residence of one individual, family, or household. See “Place of Habitation” and “Dwelling, Multi-family.”

Basement means a story of a Building which is partly or entirely below finish grade.

Board means the Caldwell County Board of Commissioners.

Building means any structure used or intended for supporting or sheltering any use or occupancy. The term Building shall be construed as if followed by the words “or part thereof.”

Close means secured in such a way unauthorized persons cannot enter the Building.

Condominium means a form of legal ownership of real property where owners each have individual interests in one or more private units, as well as common interest in the underlying real property and other common areas.

County means Caldwell County.

Crawl Space means an area under a floor or roof, giving access to wiring or plumbing.

Demolish means the demolition and removal of the entire Building leaving the property free and clear of any debris and without holes or pockets which may retain water.

Detached Single-Family Rental Development means any site, tract of land, and/or development with contiguous ownership upon which the purpose and/or design is for two or more single-family detached rental dwellings which are to be leased to the tenants by the property Owner.

Deteriorated means a Dwelling unfit for human habitation which can be repaired, altered, or improved to comply with all the minimum standards established by this Ordinance at a cost less than 50% of its value, as determined by findings of the Public Officer.

Dilapidated means a Dwelling unfit for human habitation which cannot be repaired, altered, or improved to comply with all the minimum standards established by this Ordinance at a cost less than 50% of its value as determined by findings of the Public Officer.

Dwelling means a 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 in addition, except 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 NCGS 143-145(7). A Recreational Vehicle (RV) shall not be considered a dwelling and, therefore, is not subject to the Minimum Housing Ordinance standards and inspections.

Dwelling Unit means a single unit providing completely independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling, Multi-Family Residential means all apartments, condominiums, townhouses, and/or detached single family rental developments. See also "Apartment," "Condominium," "Townhouse" and/or "Detached Single-Family Rental Development."

Egress means the clear and unobstructed way by which a Person may leave a building.

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 housing inspector.

Garbage means the byproduct of animal or vegetable food matter resulting from the preparation, cooking, and consumption of food or other matter which is subject to decomposition, decay, or the generation of noxious or offensive gases or odors, or which during or after decay may serve as breeding or feeding material for flies, insects, or animals.

Habitable Room means a room or enclosed floor space occupied by one or more persons used or intended to be used for living, sleeping, cooking, or eating purposes. Bathrooms, water closet compartments, laundries, pantries, foyers, communicating corridors, closets, or storage spaces are not included.

Hearing Officer means the Public Officer.

Housing means the same as Dwelling.

Housing Appeals Board means the Caldwell County Housing Appeals Board.

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

Manufactured Home means a manufactured building designed to be used as a single-family dwelling unit which has been constructed and labeled indicating compliance with the HUD administered National Manufactured Housing Construction and Safety Standards Act of 1974, as amended. Also known as a Mobile Home.

Multi-Family Housing means a building or structure occupied or intended for occupancy as the home or residence of more than two families, living independently of each other, and doing their own cooking within their respective housing units.

NCGS means the North Carolina General Statutes.

Non-Residential Building means any agricultural, commercial, industrial, institutional, public, or other building not occupied as a dwelling, including hotels and motels.

Occupant means any Person living, sleeping, cooking, or eating in, or having actual possession of a place of habitation.

Operator means any Person who has charge, care, or control of a Building in which there are places of habitation.

Owner means any Person who, alone or jointly, or severally with others, has title to any dwelling or dwelling unit, with or without accompanying actual possession thereof or has the charge, care, or control of any dwelling or dwelling unit.

Parties of Interest means any Person having an interest of record in a place of habitation, including a Person who is in possession or control as an agent of the Owner, executor, administrator, trustee, and/or guardian of the estate of the Owner.

Person means any individual, corporation, firm, partnership, association, or other legal entity.

Place of Habitation means any Dwellings, dwelling unit, habitable room, multi-family dwelling, or any other structure used for human habitation, which is occupied under a lease or holds a legal tenancy.

Plumbing means a water supply system, sanitary and storm drainage system, vent system, fixtures, and traps, and includes their respective connections, devices, appliances, and appurtenances within the property lines of the premises.

Public Officer means an inspector of the County, or designee, authorized to exercise the powers prescribed in this Chapter.

Premises means a lot, plot, or parcel of land including the Buildings or Structures thereon.

Public Authority means any officer who oversees any department or branch of the

government of the County or in the State of North Carolina who oversees enforcement of standards relating to health, human services, fire, building regulations, or other activities concerning Dwelling in the County.

Public Space means the space within any place of habitation which is open to use by the public.

Refuse means all accumulations of solid waste consisting of, without limitation, garbage, household trash, or business trash as either defined herein or in the Caldwell County Solid Waste Management Chapter.

Removal means the demolition and removal of the entire structure, leaving the property free and clear of debris and without holes or pockets which may retain water.

Residential Building means any Building or Structure, which is used, or designed or intended to be used, for human habitation, including living, sleeping, cooking, and eating or any combination thereof.

Rooming House means any Dwelling, or part of any Dwelling, containing one or more rooming units, in which space is let by the Owner or operator to three or more people who are not members of the family of the Owner or operator.

Rubbish means combustible and noncombustible waste materials, except garbage. The term includes, but is not limited to, combustible material, wood, paper, rags, cartons, boxes, tires, mattresses, tree branches, yard trimmings, metals, glass, crockery, furniture, or appliances stored in the open which are not intended for outdoor use and including immobilized vehicles or parts thereof.

State means the State of North Carolina.

State Law means the laws, regulations, and rules of North Carolina.

Story means the portion of a Building included between the upper surface of any floor and the upper surface of the floor or roof next above.

Structure means something 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 place of habitation which does not meet the standards of fitness of this Chapter.

Temporary Housing means any tent, trailer, or other structure which is designed to be transportable, is not attached to the ground, to another structure, or to any

utility system on the same premise.

Tenant means any Person who alone, or jointly, occupies a place of habitation under a lease or holds a legal tenancy in a Building.

Townhouse or Townhome means a residential Dwelling unit built immediately adjacent to another Dwelling with an intervening party wall, and with each Dwelling having an individual exterior entrance. Such structures may be situated on their own lot or have a condominium ownership structure.

Unfit for Human Habitation means the conditions existing in a place of habitation which violates or does not comply with one or more of the minimum standards of fitness, or with one or more of the responsibilities of Owners and Occupants established by this Chapter.

Vacant Industrial Warehouse means any Building or Structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

Vacant Manufacturing Facility means any Building or Structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

Ventilation means the movement of air by natural or mechanical means.

SECTION 5. CONFLICT WITH OTHER PROVISIONS

(a) This Chapter does not replace or modify requirements otherwise established by the NC Building Code, the County's Unified Development Ordinance, or any other applicable County ordinances for the construction, repair, alteration, or use of buildings, equipment, or facilities except as provided within this Chapter.

(b) In the event any provision, standard, or requirement of this Chapter is found to conflict with another provision of this or any other County ordinance, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of people shall apply.

SECTION 6. PUBLIC OFFICER

(a) The Director of the County Planning and Development Department is hereby designated the Public Officer to exercise the powers herein prescribed. The Public Officer shall have such powers as may be necessary to effectuate the purpose and provisions of this Chapter which include, but are not limited to, the following:

1. To take such an action alone or together with other appropriate

departments and agencies, public and private as may be necessary to effect rehabilitation or removal of buildings which are substandard and/or unfit.

2. To take such action alone or together with other appropriate departments or agencies, public and private, as may be necessary to eliminate vegetation over-growth, clear unauthorized dump sites, or correct other environmental conditions which are harmful to public well-being, and to prevent harboring of rodents, insects, and other similar pests.

3. To serve as hearing officer, administer oaths and affirmations, examine witnesses, and receive evidence.

4. To enter upon premises for the purpose of making examinations and inspections, provided such entries are made in accordance with this Chapter and State Law, and shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.

5. To appoint and fix the duties of such Officers, agents, and employees as necessary to assist in carrying out the purposes of this Chapter and to delegate any functions and powers to such Officers, agents, and employees.

6. To determine when Buildings and accessory Structures are substandard and/or unfit for human habitation if the Public Officer finds, based on the requirements set forth in this Chapter, conditions exist in such Structures or accessory structures which are dangerous or injurious to the health, safety, or welfare of the public.

(b) Except as may otherwise be provided by State Law or County ordinance, no Public Officer, agent, or employee of the County charged with enforcement of the minimum housing and non-residential code shall be personally liable for any damage that may accrue to Persons or property because of any act required or permitted in the discharge of their duties under this Chapter. No Person who institutes or assists in the prosecution of a criminal proceeding under this Chapter shall be liable for damages unless they acted with malice and without reasonable grounds for believing the Person accused was guilty of an unlawful act or omission.

SECTION 7. HOUSING APPEALS BOARD

(a) In accordance with the authority granted under NCGS 160D-305, the Board hereby creates the Caldwell County Housing Appeals Board who shall hear all appeals of any final and binding order, requirement, or determination made by the Public Officer pursuant to this Chapter.

(b) The Board shall appoint 5 members to serve on the Housing Appeals Board. Members shall include the Sheriff, and 4 members who are County citizens.

SECTION 8. ADMINISTRATIVE LIABILITY

To the extent allowed by applicable law, no Public Officer, agent, or employee of the County, charged with the enforcement of this Chapter, shall be personally liable for any damage that may accrue to Persons or property, because of any act required or permitted in the discharge of duties under this Chapter.

SECTION 9. COMPLIANCE

(a) Places used for human habitation shall comply with all the minimum standards and requirements of this Chapter.

(b) All Owners, operators, and occupants shall comply with the requirements of this Chapter to maintain these standards.

(c) No Person shall occupy or allow occupancy of a place of habitation that violates this Chapter.

(d) The County 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 Chapter 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.

(e) 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 complaint with the minimum insulation standards, for residential construction, by the Code Official, as prescribed in the NC Building Code.

(f) 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 10. RESPONSIBILITIES OF OWNERS AND OCCUPANTS

The general responsibilities of Owners and Occupants of places of habitation, including, but not limited to, the following:

(a) Owners shall be responsible for maintaining, in a reasonably clean and sanitary condition, the shared or public spaces of the place of habitation and premises. Occupants shall be responsible for maintaining, in a reasonably clean and sanitary condition, the part of the place of habitation and premises which they occupy and control.

(b) Occupants shall be responsible for the extermination of any insects, rodents, or other pests infesting the place of habitation; however, owners shall be responsible for extermination if the place of habitation is not reasonably impervious to pests.

(c) Occupants shall be responsible for disposing of refuse and/or garbage in a clean and sanitary manner by placing it in adequate facilities for such disposal.

(d) Owners shall be responsible for providing adequate, operable plumbing facilities, as required herein, including an adequate water heater, and maintaining such facilities in efficient operating condition. Occupants shall be responsible for exercising reasonable care in the use of such facilities and for maintaining them in a clean and sanitary condition.

(e) Owners shall be responsible for providing adequate and operable heating facilities and appliances, as required herein, and for maintaining them in efficient operating condition. Occupants shall be responsible for exercising reasonable care in the use of such facilities and appliances.

(f) Owners shall ensure the place of habitation remains closed and secured when not occupied.

(g) Occupants shall give Owners, agents, and/or employees access to any part of the place of habitation for the purpose of making repairs or alterations to bring the place of habitation into compliance with this Ordinance or any other lawful order.

(h) Owners shall ultimately be responsible for violations of this Ordinance, irrespective of any agreement between the Owner and the Occupants.

SECTION 11. STRUCTURAL STANDARDS

(a) Walls, floors, and roofs shall not have any rotted, deteriorated, or damaged supporting members that compromise structural integrity resulting in an unsafe condition.

(b) Foundations, foundation walls, piers, or other foundation supports shall not be deteriorated or damaged to a point that compromises supporting strength.

(c) Stairs, porches, and any appurtenance thereto shall be safe to use and capable of supporting a normal load.

(d) Every place of habitation shall be provided with adequate means for egress in the case of fire or panic.

(e) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained to be reasonably weatherproof and watertight.

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

(g) There shall be no use of exposed ground as a floor. Wood floors shall not be placed directly on exposed ground.

SECTION 12. BASIC EQUIPMENT AND FACILITIES STANDARDS

(a) Plumbing System

1. Each dwelling unit shall be connected to a potable water supply and public sewer, or an approved and permitted sewage disposal system.

2. All plumbing fixtures shall be maintained in operable condition.

3. Each dwelling unit shall contain a kitchen sink with an adequate supply of hot and cold water.

4. Each dwelling unit shall contain bathroom facilities to include a toilet, a sink, and a tub or shower with an adequate supply of hot and cold water. The tub or shower and toilet shall be in a room or rooms affording privacy to the user.

(b) Heating System

1. Each dwelling unit shall have a central or electric heating system or sufficient chimneys, flues, or gas vents with a heating appliance connected, to heat all habitable rooms to a minimum temperature of sixty-eight (68) degrees Fahrenheit measured three feet above the floor with an outside temperature of 20 degrees Fahrenheit.

2. Portable heaters are not acceptable as permanent heat sources.

(c) Electrical Systems

1. Every Dwelling unit shall be wired for electric lights and convenience receptacles.

2. All fixtures, receptacles, equipment, and wiring shall be safe and maintained in a state of good repair.

3. There shall be installed in every bathroom and laundry room at least one ceiling or wall electric light fixture.

4. Every public hall and stairway in multi-family dwellings shall always be adequately illuminated by electric lights when natural daylight is not sufficient.

5. Smoke alarms shall be provided which are operable and in good repair. The landlord is responsible to provide at least one carbon monoxide alarm when there exists an attached garage or fossil-fuel burning heater, fireplace, and/or appliance. Unless the landlord and tenant have a written agreement to the contrary, the landlord shall place new batteries in the alarms at the beginning of each tenancy and the tenant shall replace the batteries as needed during tenancy, except where the alarm is a tamper-resistant, 10-year lithium battery smoke alarm. The landlord is responsible to repair or replace alarms within fifteen days of receipt of written notification by the tenant of needed repair or replacement.

(d) Room Sizes

Every Dwelling unit shall contain at least the minimum room size in each habitable room as required by the NC Building Code at the time the Dwelling was constructed.

(e) Ventilation

1. Every habitable room and bathroom shall have a permanent means of air circulation or air exchange.

2. Except where provided by mechanical ventilation, every habitable room shall have an operable window, the size of which shall be not less than 8% of the floor area of the room.

3. Every bathroom shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(f) Window Screens

When air conditioning is not provided, every door opening directly from a dwelling unit to an outdoor space shall have a screen door with a self-closing device. Every window opening to an outdoor space shall be supplied with screens.

(g) Infestation

1. Every occupant of a dwelling unit shall be responsible for the extermination

of any insects, rodents, or other pests therein or on the premises. Every occupant of a dwelling unit within a multi-family dwelling shall be responsible for such extermination whenever their dwelling unit is the only one infested.

2. Extermination shall be the responsibility of the Owner when infestation exists in one of the following circumstances:

   i. Infestation in two or more dwelling units in any multi-family dwelling; or

   ii. Infestation in the shared parts of any dwelling within a multi-family dwelling unit; or

   iii. When infestation is caused by the failure of the Owner to maintain a dwelling in a reasonably rodent and insect proof condition.

SECTION 13. RECEPTACLES AND CONTAINER REQUIREMENT

Every dwelling unit shall have an adequate and suitable receptacle or container with a lid in which garbage and household trash can be stored on a temporary basis per the Caldwell County Solid Waste Management Chapter.

SECTION 14. MOLD

Mold is not addressed under this Chapter.

SECTION 15. ENFORCEMENT – PRELIMINARY INVESTIGATION

(a) The Public Officer shall investigate a place of habitation and associated property, or a non-residential building or structure, when:

   1. A petition is filed with the Public Officer by a public authority or by at least five County residents who are at least 18 years of age in accordance with NCGS 160D-1203(2), or

   2. When it appears to the Public Officer upon inspection any place of habitation is in violation of this Ordinance.

   3. When it appears to the Public Officer any non-residential building or structure has not been properly maintained, which would jeopardize the safety or health of its occupants or members of the general public, for failure of the property to meet the minimum standards established by the Board.

(b) For conducting a preliminary investigation or inspection, the Public Officer, upon presentation of proper credentials, and being given permission, is hereby authorized to enter, examine, and survey at all reasonable hours, all places of habitation and the premises associated therewith.

(c) When permission to inspect a place of habitation or its premises, or a non-residential Building or Structure, is denied, the Public Officer may obtain an administrative warrant, or permission of the tenant.

SECTION 16. COMPLAINT AND NOTICE OF ADMINISTRATIVE HEARING

(a) If the Public Officer's preliminary investigation discloses violations of this Ordinance, they may issue a complaint and cause it to be served upon the property Owner and Parties of Interest in the place of habitation, or upon the Owner of, and Parties of Interest in, the non-residential Building or Structure.

(b) The complaint must state the basis for the charges and contain a notice that a hearing will be held before the Public Officer at a place stated in the notice, within the time required by State Law.

(c) Notice of the hearing for residential properties must also be given to at least one of the five or more people who signed the initial petition.

(d) The Owner or Party of Interest has the right to:

1. Correct the violation and notify the County to obtain approval; or

2. File an answer to the complaint, appear in person, and give testimony.

(e) Any Person 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 those controlling rules in a hearing before the Public Officer.

SECTION 17. ISSUANCE OF ORDER

(a) Generally

After the notice and hearing, the Public Officer shall issue a written determination which must include findings of fact supporting whether the place of habitation is unsafe or unfit for occupancy and whether it is deteriorated or dilapidated.

(b) Deterioration

1. If the Public Officer finds deterioration, they shall issue and cause to be served upon the Owner and Parties of Interest an order to repair, alter, and improve the place of habitation to comply with the standards of fitness established by this Ordinance within a specified period, not to exceed ninety days.

2. The order may require the Owner to vacate and close such a place of habitation while occupancy would present a significant threat of bodily harm.

3. The Public Officer may grant extensions of up to one hundred eighty days if good cause is shown.

(c) Dilapidation

1. If the Public Officer finds dilapidation, they shall issue and cause to be served upon the Owner and Parties of Interest an order to vacate and close the place of habitation.

2. The order shall require the place of habitation to be removed or demolished within a specified period, not to exceed ninety days.

3. The Public Officer may grant extensions of up to ninety days for good cause shown.

(d) If the Public Officer determines the non-residential building or structure has not been properly maintained, they shall state in writing findings of fact in support of the determination and issue and cause to be served upon the Owner the order. The order may require the Owner to take remedial action, within a reasonable time specified. The order may require the Owner to take remedial action within a specified time:

1. Repair, alter, or improve the non-residential Building or Structure to bring it into compliance; or

2. Vacate and close the non-residential Building or Structure for any use; or

3. Remove or demolish the non-residential Building or Structure if the cost of repair, alteration, or improvement of the Building or Structure exceeds fifty percent (50%) of its then-current value. If the non-residential Building or Structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district, pursuant to State Law, or in a historic district listed in the National Register of Historic Places, and the Board determines the non-residential Building or Structure is of individual significance or contributes to maintenance of the district's character, has not been condemned as unsafe, the order may require the non-residential Building or Structure be vacated and closed until it is brought into compliance.

SECTION 18. AFFORDABLE HOUSING PROVISION

(a) If the notice of order is for dilapidation, the notice of order shall be sent by first class mail to any organization involved in providing or restoring dwellings for affordable housing which has filed a written request for such notices, in accordance with State Law.

(b) A minimum period of forty-five days from the mailing of notices shall be given before the removal or demolition by action of the Public Officer, to allow the

opportunity for any organization to negotiate with the Owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing.

(c) The Public Officer shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud.

(d) Only an organization which has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Public Officer to wait forty-five days before causing removal or demolition.

SECTION 19. FAILURE TO COMPLY WITH ORDER

(a) General Provisions

1. The duties of the Public Officer set forth in this ordinance, shall not be exercised until the Board has ordered the Public Officer to proceed to effectuate the purpose of this Chapter with respect to the particular property or properties the Public Officer has found to be unfit for human habitation.

2. The property or properties shall be described in the ordinance.

3. The ordinance shall be recorded in the Caldwell County Office of the Register of Deeds and indexed in the name of the property Owner in the grantor index.

(b) Repair, Closing and Posting

1. If the Owner fails to comply with an order to repair, alter, improve, or vacate and close the dwelling, then the Public Officer may cause the dwelling to be repaired, altered, improved, or vacated and close the dwelling.

2. The Public Officer may cause to be posted on the main entrance of any dwelling closed a placard with the following notice: “This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.”

3. Any person, contractor, firm, or corporation who violates the provisions of this Chapter shall, upon conviction, be guilty of a Class 1 misdemeanor, with a maximum penalty of 120 days in jail and a discretionary fine, as provided by law. Each 30 days of continued violation shall be considered a separate offense.

4. Any Person occupying a non-residential building shall be guilty of a Class 3 misdemeanor and shall be fined not more than $500.00, or imprisonment for not more than 30 days, or both. Each day a violation continues, after the offender has been notified of the violation, shall constitute a separate

occurrence. A third conviction within a 5-year period shall constitute a Class 1 misdemeanor, with a maximum penalty of 120 days in jail and a discretionary fine, as provided by law. Each 30 days of continued violation shall be considered a separate offense.

5. If the Owner fails to comply with an order to remove or demolish the Dwelling, the Public Officer may cause such Dwelling to be removed or demolished.

6. No 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 standards of this Chapter.

(c) Abandonment of Intent to Repair

1. If the Dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to this Chapter, or after the Public Officer issues an order or proceedings have commenced under the substandard housing regulations regarding a Dwelling to be repaired or vacated and closed as provided in this Chapter, pursuant to NCGS 160D-1203(6), the Board may find the following:

    i. The Owner has abandoned the intent and purpose to repair, alter, or improve the Dwelling to render it fit for human habitation; or

    ii. The continuation of the dwelling in its vacated and closed status would be harmful to the health, safety, and welfare of people of the County because the Dwelling could:

        A. Continue to deteriorate,

        B. Create a fire and safety hazard,

        C. Threat children and vagrants,

        D. Attract persons intent on illegal activities,

        E. Cause or contribute to blight and the deterioration of property values in the area, and

        F. Render unavailable property and dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing.

(d) Failure to Comply with Order for Non-Residential Buildings and Structures

1. If the Owner fails to comply with an order to repair, alter, or improve or to vacate and close the non-residential Building or Structure, the Board may adopt an ordinance ordering the Public Officer to proceed to effectuate the

purpose of this Chapter with respect to the particular property or properties that the Public Officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the Caldwell County Office of the Register of Deeds and shall be indexed in the name of the property Owner or Owners in the grantor index. Following adoption of an ordinance, the Public Officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The Public Officer may cause to be posted on the main entrance of any non-residential building or structure so closed a placard with the following notice: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any Person who occupies or knowingly allows the occupancy of a Building or Structure so posted is guilty of a Class 3 misdemeanor.

2. Any Person violating a provision of this Chapter shall be guilty of a Class 3 misdemeanor and shall be fined not more than $500.00, or imprisonment for not more than 30 days, or both. Each day a violation continues, after the offender has been notified of the violation, shall constitute a separate occurrence. A third conviction within a 5-year period shall constitute a Class 1 misdemeanor, with a maximum penalty of 120 days in jail and a discretionary fine, as provided by law. Each 30 days of continued violation shall be considered a separate offense.

3. If the Owner fails to comply with an order to remove or demolish the non-residential Building or Structure, the Board may adopt an ordinance ordering the Public Officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a non-residential building or structure until the Owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the Board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the Caldwell County Office of the Register of Deeds and shall be indexed in the name of the property Owner or Owners in the grantor index. Following adoption of an ordinance, the Public Officer may cause the Building or Structure to be removed or demolished.

4. In the case of a non-residential Building or Structure, if the Board adopted an ordinance or the Public Office issued an order requiring the building or structure to be repaired, or vacated and closed, and the Building or Structure has been vacated and closed for two years pursuant to the ordinance or order, the Board may make findings the Owner has abandoned the intent and purpose to repair, alter, or improve the Building or Structure and the continuation of the Building or Structure in its vacated and closed status would be harmful to the health, safety, and welfare of the

people of the County, in that it would continue to deteriorate, create a fire or safety hazard, threaten children and vagrants, attract persons intent on illegal activities, or cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Board may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the Owner, setting forth the following:

i. If the cost to repair the non-residential Building or Structure to bring it into compliance with the minimum standards is less than or equal to 50% of its then-current value, the ordinance shall require the Owner either repair or demolish and remove the Building or Structure within ninety days.

ii. If the cost to repair the non-residential Building or Structure to bring it into compliance with the minimum standards exceeds 50% of its then-current value, the ordinance shall require the Owner to demolish and remove the Building or Structure within ninety days.

5. In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the Building or Structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the Board. The ordinance must be recorded in the Caldwell County Office of the Register of Deeds and indexed in the name of the property Owner in the grantor index.

6. Then in such circumstances, the Board may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the Owner, setting forth the following:

i. If it is determined that the dwelling is deteriorated, the ordinance shall require that the Owner either repair or demolish and remove the Dwelling within 120 days.

ii. If it is determined that the dwelling is dilapidated, the ordinance shall require the Owner to demolish and remove the Dwelling within 120 days.

(e) Liens

1. The amount of the costs of repairs, alterations, improvements, vacating of, and closing, or removal or demolition by the County shall constitute a real property lien, upon which the cost was incurred. The real property lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in State Law.

2. If the Dwelling is removed or demolished by the County, the local government it shall sell the materials of the Dwelling, and any personal

property, fixtures, or appurtenances found in or attached to the Dwelling.

i. The proceeds of the sale will be credited against the cost of the removal or demolition, and any balance remaining shall be deposited in the Clerk of Court.

ii. It shall be secured in a manner directed by the Clerk of Court and shall be disbursed by the Clerk of Court to the Persons found to be entitled thereto by final order or decree of the Clerk of Court.

iii. If the County contracts for demolition, the contractor shall verify by affidavit the proceeds from the sale of any salvaged materials, including personal property, fixtures, or appurtenances, have been credited against the cost of demolition.

3. Nothing in this Chapter shall impair or limit in any way the authority of the County to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(f) Civil Action

If any Owner or Occupant fails to comply with a lawful order to vacate a place of habitation, the County may file a civil action for summary ejectment to remove the occupant as authorized by State Law.

SECTION 20. METHOD OF SERVICE

(a) Complaints or orders issued by the Public Officer shall be served on Parties of Interest personally, or by certified mail, return receipt requested.

1. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed effectuated if the certified mail, return receipt requested, is unclaimed or refused, but the regular mail is not returned by the post office within ten days after mailing.

2. If regular mail is used, notice of the pending proceedings shall also be posted in a conspicuous place on the affected premises pursuant to State Law.

(b) If, after reasonable due diligence, the Public Officer cannot locate Persons to be served with notice, the Public Officer shall sign an affidavit to that affect and the complaint or order shall be published in a newspaper of general circulation within the County. Notice of the pending proceedings shall also be posted in a conspicuous place on the affected premises pursuant to State Law.

(c) Failure on the part of any Owner or Party of Interest to receive or have served upon them any complaint, notice, or order herein provided for shall not affect or invalidate the proceedings with respect to any other Owner or Party of

Interest, or any other person.

SECTION 21. APPEALS

(a) Generally

1. Any Owner or Party of Interest who has received an order under this Chapter may appeal to the Housing Appeals Board.

2. The appeal must be filed with the Public Officer and the Housing Appeals Board within ten days following service of the order. The notice of appeal must specify the grounds upon which the appeal is based.

3. Upon the filing of a notice of appeal, the Public Officer must provide the Housing Appeals Board with all documents constituting the record upon which the decision appealed from was made.

(b) Appeal of Decision

1. When an appeal is from a decision of the Public Officer refusing to allow a person to do any act, the decision shall remain in effect until modified or reversed.

2. When an appeal is from a decision of the Public Officer requiring a person to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Housing Appeals Board, unless the Public Officer certifies to the Housing Appeals Board a suspension of the requirement would cause imminent harm to life or property. In that case the requirement shall not be suspended except by a restraining order or injunction issued by a court of competent jurisdiction.

(c) The Housing Appeals Board

1. The Housing Appeals Board shall fix a reasonable time for hearing appeals, give notice to the parties, and shall render its decision within a reasonable time. Any party may appear themselves or be represented by an attorney.

2. The Housing Appeals Board may reverse, affirm, or modify the decision or order appealed.

3. The Housing Appeals Board shall have all the powers of the Public Officer. A vote of at least four members is necessary to reverse or modify any decision or order of the Public Officer.

4. Every appellate decision of the Housing Appeals Board shall be subject to review by proceedings in certiorari instituted in the Superior Court within fifteen days of the decision of the Housing Appeals Board, but not otherwise.

5. Within 30 days of the issuance of the Housing Appeal Board's decision, a Person with standing may apply to the Superior Court for relief.

SECTION 22. PENALTIES

(a) Generally

1. The remedies provided in this Section are cumulative and not exclusive. They may be independently pursued against the same person for any activity constituting a violation of this Chapter.

2. Nothing in this Chapter shall be constructed to impair or limit in any way the power of the County to define and declare nuisances, and to cause their removal or abatement by summary of proceedings or otherwise. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies in any other ordinances or laws.

(b) Civil Penalties

1. In addition to any other penalty imposed by this Chapter, a violation may subject the Owner or Party of Interest to a penalty which shall be in accordance with the Board's Fee Schedule.

2. Any penalty must be paid at the Tax Department of the County.

3. Failure of the Owner or Party of Interest to issue payment within thirty days from the initial date of noncompliance may result in the County initiating an action for collection of the debt.

4. In addition to any other penalty imposed by this Ordinance, the County may seek any other legal remedy under the law.

(c) Criminal Penalties

1. In addition to any other penalty imposed by this Ordinance, an Owner or Party of Interest which occupies a residential building which has been posted preventing occupancy shall, upon conviction, be guilty of a Class 1 misdemeanor, with a maximum penalty of 120 days in jail and a discretionary fine, as provided by law. Each 30 days of continued violation shall be considered a separate offense.

2. In addition to any other penalty imposed by this Ordinance, an Owner or Party of Interest which occupies a non-residential building which has been posted preventing occupancy shall, upon conviction, be guilty of a Class 3 misdemeanor and shall be fined not more than $500.00, or imprisonment for not more than 30 days, or both. Each day a violation continues, after the offender has been notified of the violation, shall constitute a separate

occurrence. A third conviction within a 5-year period shall constitute a Class 1 misdemeanor, with a maximum penalty of 120 days in jail and a discretionary fine, as provided by law. Each 30 days of continued violation shall be considered a separate offense.

(d) Injunction

1. In addition to an injunction, the Court may also enter an order of abatement directing specific action be taken to bring the property into compliance with this Chapter.

2. If the Owner or Party of Interest fails or refuses to comply, the County is authorized to carry out the Court's order including attaching a lien to the property for all costs associated with execution of the Order, including attorney's fees.

(e) Ejectment

1. If any occupant fails to comply with an order to vacate a non-residential Building or Structure, the County may file a civil action to remove the occupant. The action to vacate is in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties any person occupying the non-residential Building or Structure.

2. An action to remove an occupant of a non-residential Building or Structure who is a tenant of the Owner may not be in the nature of a summary ejectment proceeding unless the occupant was served with notice, at least thirty days before the filing of the summary ejectment proceeding, that the Board has ordered the Public Officer to proceed.