AN ORDINANCE MAKING REVISIONS TO CHAPTER 10 OF THE BURKE COUNTY CODE OF ORDINANCES CONCERNING BUILDINGS AND BUILDING REGULATIONS

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF BURKE IN REGULAR SESSION ASSEMBLED:

The following changes are hereby made to Chapter 10 of the Burke County Code of Ordinances. These changes shall be considered effective on the date that this ordinance is approved by the Burke County Board of Commissioners. Additions are indicated by underlined text, and deletions are indicated by ~~struck through text~~.

ARTICLE I - BUILDING REGULATIONS ~~IN GENERAL~~

. . .

~~ARTICLE II – HOUSING CODE~~

~~DIVISION 1. - GENERALLY~~

Section 10-26 - Findings; purpose.

Pursuant to G.S.160D Article 11, Burke County shall maintain a building inspections department to administer a program for managing building permits and inspecting work on structures throughout the jurisdiction. At times and with thorough review by appropriate persons following sufficient procedures it should be found that some structures are unsafe for occupancy and / or unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and other conditions. These structures may be subject to an appropriate action from Burke County to secure, renovate, repair or demolish them in consideration of the safety, health and welfare of the residents of the county.

~~(a) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the county and towns which use the services of the county building inspection department, dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health and otherwise inimical to the welfare of the residents of the county.~~

~~(b) In order to protect the health, safety and welfare of the residents of the county and towns as authorized by G.S. 160A-441 et seq., it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444.~~

~~(Code 1993, § 10-26; Ord. of 4-2-1991(2), § 1)~~

Sec. 10-27. Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, in addition to their ordinary meaning, except where the context clearly indicates a different meaning:

. . .

Building or buildings - Includes other structures;

. . .

Governing board or board of commissioners – Burke County Board of Commissioners;

. . .

Local government – The jurisdiction of Burke County;

. . .

~~Sec. 10-28. Violations; penalty.~~

~~(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve such dwelling or dwelling unit, or to vacate and close and remove or demolish such dwelling or dwelling unit, upon order of the building code administrator duly made and served as provided in this article, within the time specified in such order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense.~~

~~(b) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 10-36(b), to occupy or permit the occupancy of the dwelling or dwelling unit after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.~~

~~(c) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. 14-4.~~

~~(d) In addition to the remedy specified in this and in other sections of this article, the provisions of this article may also be enforced by the county by injunction and order or abatement or by any other equitable remedy issuing from a court of competent jurisdiction, as specified in G.S. 153A-123(d) and (e).~~

~~(Code 1993, § 10-28; Ord. of 4-2-1991(2), § 22)~~

~~Sec. 10-29. Alternative remedies.~~

~~Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the county to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by G.S. 14-4 and section 10-30 of this section. The enforcement of any remedy provided in this section shall not prevent the enforcement of any other remedy provided in this article or in other ordinances or laws.~~

~~(Code 1993, § 10-29; Ord. of 4-2-1991(2), § 19)~~

~~Sec. 10-30. Conflict with other provisions.~~

~~If any provision, standard or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the county, 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 county shall prevail.~~

~~(Code 1993, § 10-30; Ord. of 4-2-1991(2), § 21)~~

Sec. 10-31. Housing appeals board.

There is hereby created a housing appeals board to which appeals may be taken from decisions or orders of the building code administrator as provided by section 10-37. The board shall consist of five members to serve for three-year staggered terms. The board shall have the power to elect its own officers, to fix the times and places of its meetings, to adopt necessary rules of procedure and to adopt other rules and regulations for the proper discharge of its duties. The board shall perform the duties prescribed by section 10-37 and shall keep an accurate record of all its proceedings. Appointment of board members shall be made by the board of commissioners.

(Code 1993, § 10-31; Ord. of 4-2-1991(2), § 20)

Sec. 10-32. Responsibilities of owners and occupants.

(a) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) *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.

(c) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(d) *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 the plumbing fixtures.

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

(Code 1993, § 10-32; Ord. of 4-2-1991(2), § 11)

Sec. 10-33. Duties of building code administrator.

The building code administrator of the county building inspection department is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers prescribed in this article. It shall be the duty of this officer or his agents to:

(1) Investigate the dwelling conditions and to inspect dwellings and dwelling units located in the county in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this article with respect to such dwellings or dwelling units.

(2) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated.

(3) Keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed.

(4) Perform such other duties as may be prescribed in this article.

(Code 1993, § 10-33; Ord. of 4-2-1991(2), § 12)

Sec. 10-34. Powers of building code administrator.

The building code administrator is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others granted in this article:

(1) Investigate, according to section 10-36, the dwelling conditions in the county in order to determine which dwellings therein are unfit for human habitation.

(2) Administer oaths and affirmations, examine witnesses and receive evidence.

(3) Enter upon premises for the purpose of making examinations and inspections, provided such entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession.

(4) Appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this article.

(Code 1993, § 10-34; Ord. of 4-2-1991(2), § 13)

Sec. 10-35. Inspections; duty of owners and occupants.

For the purpose of making inspections, the building code administrator is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the building code administrator free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times and with one week notice for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.

(Code 1993, § 10-35; Ord. of 4-2-1991(2), § 14)

Sec. 10-36. Procedure for enforcement; notice; hearing.

(a) *Preliminary investigation; notice, hearing.* Whenever a petition is filed with the building code administrator by a public authority or by at least five residents of the county, or upon request of a realtor licensed within the state to engage in the sale of real property, or in the opinion of the building code administrator of the county building inspection department (G.S. 153A-366), if any dwelling or dwelling unit is unfit for human habitation, after a preliminary investigation discloses a basis for such charges issued and a 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 building code administrator at a place therein, the building code administrator shall post a sign stating that such property is under investigation by the county building inspection department, not less than ten days nor more than 30 days after the serving of such complaint. The owner and any party in interest shall have the right to file and 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 of the persons signing the 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 building code administrator.

(b) *Procedure after hearing.* After notice and hearing, if the public officer determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to 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. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under this section; or

(2) If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish such dwelling. However, notwithstanding any other provision of law, if the dwelling is located in a historic district and the historic district commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160A-400.14(a).

(c) *Failure to comply with order.*

(1) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause the dwelling 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 dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this subsection shall not be exercised until the board of commissioners shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this article with respect to the particular property which the public officer shall have found to be unfit for human habitation and which property shall be described in the ordinance. This ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located and shall be indexed in the name of the property owner in the grantor index.

(2) 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. The duties of the public officer set forth in this subsection shall not be exercised until the board of commissioners shall have by ordinance ordered the public officer to proceed to

effectuate the purpose of this article with respect to the particular property which the public officer shall have found to be unfit for human habitation and which property shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county wherein the property is located and shall be indexed in the name of the property owner in the grantor index.

(d) *Failure of occupant to vacate a dwelling.*

(1) If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the city 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 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 officer produces a certified copy of an ordinance adopted by the board of commissioners authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the board of commissioners has ordered the public officer to proceed to exercise his duties under this section to vacate and close or remove and demolish the dwelling.

(2) Whenever a determination is made pursuant to this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before 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. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition.

(Code 1993, §§ 10-36, 10-37; Ord. of 4-2-1991(2), § 15(a))

Sec. 10-37. Appeals from orders of building code administrator.

(a) An appeal from any decision or order of the building code administrator may be taken by any person aggrieved thereby. Any appeal from the building code administrator shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the building code administrator and with the housing appeals board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the building code administrator shall forthwith transmit to the housing appeals board all the paper constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the building code administrator refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the building code administrator requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the housing appeals board unless the building code administrator certifies to the housing appeals board, after the notice of appeal is filed with him, that, because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property. In that 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 building code administrator, by the housing appeals board, or by a court of record upon petition made pursuant to subsection (e) of this section.

(b) The hearing appeals board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney.

(c) The hearing appeals 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 the powers of the building code administrator, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the building code administrator.

(d) 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 this article, the housing appeals board shall have the power to adapt the application of this article to the necessities of the case to the end that the spirit of this article shall be observed, public safety and welfare shall be secured and substantial justice shall be done.

(e) Every decision of the housing appeals board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the housing appeals board, not otherwise, as provided in G.S. 160A-446(e). In addition, any person aggrieved by an order issued by the building code administrator or a decision rendered by the housing appeals board shall also 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 building code administrator pending a final disposition of the cause, as provided by G.S. 160A-446(f).

(Code 1993, § 10-40; Ord. of 4-2-1991(2), § 15(d))

Sec. 10-38. Methods of service of complaints and orders.

Complaints or orders issued by the building code administrator under this article shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such persons are unknown and cannot be ascertained by the building code administrator in the

~~exercise of reasonable diligence, and the building code administrator makes an affidavit to that effect, the serving of the complaint or order upon such persons may be made by publishing such complaint or order once each week for two successive weeks in a newspaper of general circulation in the county. The second publication shall be not less than ten days nor more than 30 days prior to the date of the hearing.~~

~~(Code 1993, § 10-41; Ord. of 4-2-1991(2), § 16)~~

~~Sec. 10-39. Costs to be lien on premises.~~

~~(a) As provided by G.S. 160A-443(6), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or demolition or removal caused to be made or done by the building code administrator shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority and be enforced, and the costs collected as the lien for special assessments provided by G.S. ch. 160A.~~

~~(b) If the dwelling is removed or demolished by the public officer, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the county to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.~~

~~(Code 1993, § 10-43; Ord. of 4-2-1991(2), § 18)~~

~~Secs. 10-40—10-55. Reserved.~~

Sec. 10-28 Creation of a building inspection department.

Burke County maintains a building inspection department and will hire appropriate staff to carry out the functions outlined in this ordinance which may include: building inspector, deputy chief building inspector and chief building inspector.

The building inspections department shall perform the duties and responsibilities set forth in G.S. 160D-1104.

Sec. 10-29 Qualifications of building inspectors.

Burke County will require building inspectors to be qualified for their work to enforce the North Carolina State Building Code. Inspectors shall have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to the inspector's qualifications to hold such position: (i) a probationary certificate, (ii) a standard certificate, or (iii) a limited certificate which shall be valid only as an authorization to continue in the position held on the date specified in G.S. 143-151.13(c) and which shall become invalid if the inspector does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. 143-151.13(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher-level certificate only upon issuance by the Qualification Board of a standard certificate or probationary certificate appropriate for such new position.

Sec. 10-30 Duties and responsibilities.

(a) The duties and responsibilities of the building inspection department and of the building inspectors in it are to enforce within their planning and development regulation jurisdiction State and local laws relating to the following:

(1) The construction of buildings and other structures.

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems.

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition.

(b) The duties and responsibilities set forth in subsection (a) of this section include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws.

(c) In performing the specific inspections required by the North Carolina State Building Code, the building inspector shall conduct all inspections requested by the permit holder for each scheduled inspection. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina State Building Code. An inspector is prohibited from requiring affidavits attesting that work is in compliance with the North Carolina Residential Code in lieu of conducting inspections required for work subject to the North Carolina Residential Code.

(d) Except as provided in section 10-44 and section 10-80, Burke County will not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code in addition to the specific inspections required by the North Carolina State Building Code without first obtaining approval from the Residential Code Council. Burke County may require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Residential Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code or the North Carolina State Building Code. When a subsequent inspection is conducted to verify completion or correction of instances of Code noncompliance, any additional violations of the Code noted by the inspector on items already approved by the building inspections department shall not delay the issuance of a temporary certificate of occupancy, and the department shall not charge a fee for reinspection of those items.

(e) The building inspection department shall implement a process for an informal internal review of inspection decisions made by the department's building inspectors. This process shall include, at a minimum, the following:

(1) Initial review by the supervisor of the inspector.

(2) The provision in or with each permit issued by the department of (i) the name, phone number, and e-mail address of the supervisor of each inspector and (ii) a notice of availability of the informal internal review process.

(3) Procedures the department must follow when a permit holder or applicant requests an internal review of an inspector's decision.

Nothing in this subsection limits or abrogates any rights available under Chapter 150B of the General Statutes to a permit holder or applicant.

Sec. 10-31 Remote inspection alternative.

The building inspection department shall allow for remote inspections in accordance with criteria and procedures developed pursuant to G.S. 143-139(b)(3). The department provides the option to elect remote inspections for a project to a building permit applicant at the request of the applicant. The department will specify the extent to which a project is eligible for remote inspections at the time of building permit issuance.

Sec. 10-32 Alternate inspection method for component or element.

(a) Notwithstanding the requirements of this Article, the building inspection department will accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from an architect licensed under Chapter 83A of the General Statutes or professional engineer licensed under Chapter 89C of the General Statutes provided all of the following apply:

(1) When required by the North Carolina State Building Code, the submission design or other proposal is completed under valid seal of the licensed architect or licensed professional engineer.

(2) Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.

(3) The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the local government with a signed written document certifying that the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code. The certification required under this subdivision shall be provided by electronic or physical delivery, [and] its receipt shall be promptly acknowledged by the local government through reciprocal means. The certification shall be made on forms created by the Building Code Council and Residential Code Council which shall include at least the following:

a. Permit number.

b. Date of inspection.

c. Type of inspection.

d. Contractor's name and license number.

e. Street address of the job location.

f. Name, address, and telephone number of the person responsible for the inspection.

(a1) In accepting certifications of inspections under subsection (a) of this section, a local government shall not require information other than that specified in this section.

(b) Upon the acceptance and approval receipt of a signed written document by Burke County as required under subsection (a) of this section, notwithstanding the issuance of a certificate of

occupancy, Burke County, and the building inspection department, and the building inspectors are discharged and released from any liabilities, duties, and responsibilities imposed by this Article with respect to or in common law from any claim arising out of or attributed to the component or element in the construction of the building for which the signed written document was submitted.

(c) With the exception of the requirements contained in subsection (a) of this section, no further certification by a licensed architect or licensed professional engineer is required for any component or element designed and sealed by a licensed architect or licensed professional engineer for the manufacturer of the component or element under the North Carolina State Building Code.

(d) As used in this section, the following definitions apply:

(1) Component. - Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete, a foundation, and a prepared underslab with slab-related materials without concrete. The term does not include a system.

(2) Element. - A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system

Sec. 10-33 Mutual aid contracts.

(a) Burke County may enter into contracts with cities or counties to provide mutual aid and assistance in the administration and enforcement of State and local laws pertaining to the North Carolina State Building Code. Mutual aid contracts may include provisions addressing the scope of aid provided, for reimbursement or indemnification of the aiding party for loss or damage incurred by giving aid, for delegating authority to a designated official or employee to request aid or to send aid upon request, and any other provisions not inconsistent with law.

(b) Unless the mutual aid contract says otherwise, while working with the requesting city or county under the authority of this section, a Code-enforcement official shall have the same jurisdiction, powers, rights, privileges, and immunities, including those relating to the defense of civil actions and payment of judgments, as the Code-enforcement officials of the requesting agency.

(c) Nothing in this section shall be construed to deprive any party to a mutual aid contract under this section of its discretion to send or decline to provide aid to another party to the contract under any circumstances, whether or not obligated by the contract to do so. In no case shall a party to a mutual aid contract or any of its officials or employees be held to answer in any civil or criminal action for declining to send aid whether or not obligated by contract to do so.

Sec. 10-34 - Conflicts of interest.

Staff members, agents, or contractors responsible for building inspections shall comply with G.S. 160D-109(c). No member of the building inspection department shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the local government's planning and development regulation jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of the building inspection department or other individual or an employee of a company contracting with a local government to conduct building inspections shall engage in any work that

is inconsistent with his or her duties or with the interest of the local government, as determined by the local government. The local government must find a conflict of interest if any of the following is the case:

(1) If the individual, company, or employee of a company contracting to perform building inspections for the local government has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual, company, or employee of a company contracting to perform building inspections for the local government is closely related to the owner, developer, contractor, or project manager of the project to be inspected.

(3) If the individual, company, or employee of a company contracting to perform building inspections for the local government has a financial or business interest in the project to be inspected.

The provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years

Sec. 10-35 - Failure to perform duties.

(a) If any member of the building inspection department shall willfully fail to perform the duties required by law, or willfully shall improperly issue a building permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, the member shall be guilty of a Class 1 misdemeanor.

(b) A member of the building inspection department shall not be in violation of this section when the local government, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code from a licensed architect or licensed engineer in accordance with G.S. 160D-1104(d).

Sec. 10-36 - Building permits.

(a) Except as provided in subsection (c) of this section, and subsection (h) of section 10-37, no person shall commence or proceed with any of the following without first securing all permits required by the North Carolina State Building Code and any other State or local laws applicable to any of the following activities:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.

(2) The installation, extension, or general repair of any plumbing system, except that in any one- or two-family dwelling unit a permit is not required for the connection of a water heater that is being replaced if (i) the work is performed by a person licensed under G.S. 87-21 who personally examines the work at completion and ensures that a leak test has been performed on the gas piping and (ii) the energy use rate or thermal input is not greater than that of the water heater that is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the North Carolina State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit a permit is not required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced if all of the following requirements are met:

a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.

b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.

c. The work is performed by a person licensed under G.S. 87-43.

d. The repair or replacement installation meets the current edition of the North Carolina State Building Code, including the North Carolina Electrical Code.

However, a building permit is not required for the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87 of the General Statutes. The electric power supplier shall provide the installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. This exemption applies to all existing installations.

(b) A building permit shall be in writing and shall contain a provision that the work done shall comply with the North Carolina State Building Code and all other applicable State and local laws. Nothing in this section requires a local government to review and approve residential building plans submitted to the local government pursuant to the North Carolina Residential Code, so long as the local government may review and approve the residential building plans as it deems necessary. A local government shall not require residential building plans for one- and two-family dwellings to be sealed by a licensed engineer or licensed architect unless required by the North Carolina State Building Code. No building permits shall be issued unless the plans and specifications are identified by the name and address of their author. If the General Statutes require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no building permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. When any provision of the General Statutes or of any ordinance or development or zoning regulation requires that work be done by a licensed specialty contractor of any kind, no building permit for the work shall be issued unless the work is to be performed by a licensed contractor.

(c) No permit issued under Article 9 of Chapter 143 of the General Statutes is required for any construction, installation, repair, replacement, or alteration costing forty thousand dollars ($40,000) or less and performed in accordance with the current edition of the North Carolina State Building Code in any single-family residence, farm building, or commercial building unless the work involves any of the following:

(1) The addition, repair, or replacement of load-bearing structures. However, no permit is required for replacement of windows, doors, exterior siding, or the pickets, railings, stair

treads, and decking of porches and exterior decks that otherwise meet the requirements of this subsection.

(2) The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.

(3) The addition, replacement, or change in the design of heating, air-conditioning, or electrical wiring, devices, appliances, or equipment, other than like-kind replacement of electrical devices and lighting fixtures.

(4) The use of materials not permitted by the North Carolina State Building Code.

(5) The addition of roofing, excluding replacement.

(6) Any changes to which the North Carolina Fire Code applies.

(d) A local government shall not do any of the following:

(1) Require more than one building permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the building permit for this work shall not exceed the cost of any one individual trade permit issued by that local government. The local government shall not increase the costs of any fees to offset the loss of revenue caused by this provision.

(2) Require more than one building permit for simultaneous projects at the time of the application located at the same address and subject to the North Carolina Residential Code.

(e) No building permit shall be issued pursuant to subsection (a) of this section or (h) for any land-disturbing activity, as defined in G.S. 113A-52, or for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan for the site of the activity or a tract of land including the site of the activity has been approved under Article 4 of Chapter 113A of the General Statutes, the Sedimentation Pollution Control Act.

(f) No building permit shall be issued pursuant to subdivision (1) of subsection (a) of this section for work costing forty thousand dollars ($40,000) or more unless the name, physical and mailing address, telephone number, facsimile number, and email address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) are conspicuously set forth in the permit or in an attachment to the permit. This condition does not apply to improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5 that the owner occupies as a residence or to the addition of an accessory building or accessory structure as defined in the North Carolina Residential Code, the use of which is incidental to that residential dwelling unit. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. When the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9, the purchase price of the manufactured home is excluded in determining whether the cost of the work is forty thousand dollars ($40,000) or more.

(g) No local government shall withhold a building permit or certificate of occupancy that otherwise would be eligible to be issued under this section to compel, with respect to another property or parcel, completion of work for a separate permit or compliance with land-use regulations under this Chapter unless otherwise authorized by law or unless the local government reasonably

determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy. For the purposes of this subsection, a "public safety issue" shall not include improvement, installation, placement, repair, or replacement of any of the following:

(1) Landscaping around dwellings subject to the North Carolina Residential Code within individual lots.

(2) Landscaping within common areas within a subdivision development.

(3) Street lighting fixtures within common areas of a subdivision development.

If a developer has not, at the time of issuance of a certificate of occupancy, completed all required site improvements as set forth in subdivisions (1) through (3) of this subsection, the developer shall submit to Burke County a signed affidavit detailing the reasons why the required site improvements are not complete, the expected date of completion and compliance, and a statement promising to complete the required site improvements.

(g1) No local government may withhold a building permit under this section where the project does not propose to increase the design daily flow or wastewater strength of the existing system, and the property owner submits an on-site wastewater existing system inspection exemption affidavit. The property owner shall affirm that any modifications will meet local and State on-site wastewater system setback requirements pursuant to G.S. 130A-335.

(h) Violation of this section is a Class 1 misdemeanor.

Sec. 10-37 - Commercial and multifamily building permits for applications with sealed plans; third-party plan review alternatives; at-risk building foundation permits; at-risk building structure permits.

(a) Applicability. - This section applies to commercial and multifamily development project building permit applications that have plans and specifications that are complete and sealed for construction, as applicable, by a professional engineer licensed under Chapter 89C of the General Statutes or an architect licensed under Chapter 83A of the General Statutes.

(b) Pre-Submittal Meeting Option. – The building inspection department will provide the option for an eligible building permit applicant to request and schedule within five business days of a request a pre-submittal meeting prior to applying for a building permit to discuss a building project and to determine whether the permit applicant possesses necessary plans and sufficient information the local government would require for building permit plan review. A building permit applicant is eligible to request a pre-submittal meeting under the following circumstances:

(1) The project plans and specifications for a building project are complete and sealed for construction, as applicable, by a professional engineer licensed under Chapter 89C of the General Statutes or an architect licensed under Chapter 83A of the General Statutes.

(2) The project plans and specifications for a building project are substantially identical to those that the permit applicant would submit with the building permit application.

(3) The building permit applicant has made best efforts to compile and prepare documents required by a local government, and other State or federal agencies, for the building project.

(4) The building permit applicant has determined whether an at-risk permit option will be utilized in accordance with subsection (h) of this section.

(c) Plan Review Time Line. – The building inspection department shall complete its review of plans and specifications and issue a building permit decision to a permit applicant that has submitted necessary plans and sufficient information with a permit application within 45 days, unless the department and permit applicant otherwise agree. If the building inspection department requests additional information or requires plan resubmission with changes during its review, after receiving requested information and changes from the permit applicant, it has up to 10 additional days to issue a building permit decision. Notwithstanding the 45-day limit in this subsection, the department may issue a building permit decision within 60 days if a local government issues an at-risk building permit at the request of a permit applicant pursuant to subsection (h) of this section.

(d) Independent Third-Party Review to Assist Local Government. – The building inspection department may utilize and contract with a licensed professional engineer or licensed architect certified under G.S. 143-151.13(f) to perform independent third-party plan review under this section, provided that the review time does not exceed the time frame prescribed by subsection (c) of this section.

(e) Independent Third-Party Review Election by Permit Applicant. - If the building inspection department initially undertakes plan review of the submitted plans and does not issue a building permit decision or determines it is unable to complete plan review within the time frame prescribed by subsection (c) of this section, a permit applicant may subsequently elect to utilize and contract with a licensed professional engineer or licensed architect certified under G.S. 143-151.13(f) to perform an independent third-party plan review. Upon the department's receipt of a completed plan review with certification required by subsection (f) of this section, the department shall issue applicable building permits for the project within three business days and will refund or waive all applicable plan review and permit fees for the project upon issuance of the applicable building permits.

(f) Third-Party Review Certification Required. - A permit applicant that elects a third-party review under subsection (e) of this section shall provide the building inspections department with a written certification signed by the plan reviewer that plans comply with applicable North Carolina State Building Codes and other applicable State and local laws. The certification shall be made on a form created by the local government.

(g) Conflicts of Interest. - A third-party plan reviewer shall avoid conflicts of interest in conducting independent third-party plan reviews under this section. Conflicts of interest include a plan reviewer having any financial interest in, or being employed, other than as a plan reviewer under this section, by a business that has a financial interest in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of, or any involvement in the making of plans or specifications for, the project subject to plan review.

(h) At-Risk Building Permit Options. - At-risk building permit options are available to an eligible building permit applicant that requested and attended a pre-submittal meeting in accordance with subsection (b) of this section to discuss a building project prior to permit application. An eligible permit applicant proceeding with an at-risk permit issued by the building inspection department pursuant to this subsection assumes all risks of liability, and Burke County is discharged and released from any liabilities, duties, and responsibilities attributable to the review, approval, or construction pursuant to that at-risk permit. In accordance with G.S. 160D-108(e), where multiple local development permits are required to complete a development project, a permit issued by the department pursuant to this subsection is not an initial development permit for purposes of

the vesting protections of G.S. 160D-108(e). The following at-risk building permit options are available:

(1) At-risk building foundation permit. - At the time of permit application, an eligible building permit applicant may request an at-risk building foundation permit authorizing a permit applicant to proceed with building foundation construction. The building inspections department must issue an at-risk building foundation permit if the department determines a permit applicant has submitted all necessary plans and sufficient information, as discussed at a pre-submittal meeting pursuant to subsection (b) of this section, and received all approvals necessary, for building foundation construction notwithstanding that other development approvals from the local government, or other State or federal agencies, for the project have not yet been obtained. For the purposes of this subdivision, a permit applicant must have received an approved erosion and sedimentation control plan in accordance with Article 4 of Chapter 113A of the General Statutes for land-disturbing activity at a building foundation construction site.

(2) At-risk building structure permit. - An eligible building permit applicant that has obtained an at-risk building foundation permit pursuant to subdivision (1) of this subsection may request the issuance of an at-risk building structure permit. The building inspections department may issue an at-risk building structure permit authorizing a permit applicant to proceed with building structure construction if the department determines a permit applicant has submitted all necessary plans and sufficient information, and received all approvals necessary, for building structure construction notwithstanding that other development approvals from the local government, or other State or federal agencies, for the project have not yet been obtained. Prior to issuance of an at-risk building structure permit, the department may require a meeting with a permit applicant to discuss issues with submitted plans and information that a permit applicant would need to address prior to building structure permit issuance. For the purposes of this subdivision, "building structure construction" includes the erection and installation of structural or framing members for exterior walls and roof assemblies.

(i) Manufacturer Information. - In the event the building inspection department requires manufacturer specifications or manufacturer engineering information on an element, component, or fixture related to the submitted plans and specifications, the department shall not delay or deny the issuance of applicable building permits based upon the receipt of specifications or manufacturer engineering information on an element, component, or fixture.

(j) Burke County Liability and Vested Rights. - A permit issued by the building inspection department pursuant to this section shall not be construed to guarantee the issuance of further building permits, development approvals, or certificates of occupancy by a local government, or other State or federal agencies, that a project requires. Burke County and the department are discharged and released from any liabilities, duties, and responsibilities imposed by this Article, or in common law, from any claim arising out of, or attributed to, plans subject to a third-party independent review pursuant to subsection (e) of this section. (2023-142, s. 2(a).)

Sec. 10-38 - Expiration of building permits.

A building permit issued pursuant to this Article expires by limitation six months after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit shall immediately expire. No work authorized by any building permit that has expired shall be performed until a new permit has been secured.

Sec. 10-39 - Changes in work.

After a building permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the North Carolina State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the building inspection department.

Sec 10-40 - Inspections of work in progress.

Subject to the limitation imposed by section 10-30(d), as the work pursuant to a building permit progresses, the building inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the building inspection department have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

Sec. 10-41 - Appeals of stop orders.

(a) The owner or builder may appeal from a stop order involving alleged violation of the North Carolina State Building Code or any approved local modification thereof to the State Fire Marshal or his or her designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the State Fire Marshal or his or her designee, with a copy to the building inspector. The State Fire Marshal or his or her designee shall promptly conduct an investigation, and the appellant and the inspector shall be permitted to submit relevant evidence. The State Fire Marshal or his or her designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the State Fire Marshal or his or her designee on an appeal, no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the following options:

(1) Appealing to the Building Code Council or Residential Code Council.

(2) Appealing to the superior court as provided in G.S. 143-141.

(b) The owner or builder may appeal from a stop order involving alleged violation of a local development regulation as provided in G.S. 160D-405.

Sec. 10-42 - Revocation of building permits.

The appropriate building inspector may revoke and require the return of any building permit by notifying the permit holder in writing stating the reason for the revocation. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any building permit mistakenly issued in violation of an applicable State or local law may also be revoked.

Sec. 10-43 - Certificates of compliance; temporary certificates of occupancy.

(a) At the conclusion of all work done under a building permit, the appropriate inspector shall make a final inspection, and, if the completed work complies with all applicable State and local

laws and with the terms of the permit, the building inspector shall issue a certificate of compliance. Except as provided by subsection (b) of this section, no new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the building inspection department has issued a certificate of compliance.

(b) A temporary certificate of occupancy may be issued permitting occupancy for a stated period of time of either the entire building or of specified portions of the building if the inspector finds that the building may safely be occupied prior to its final completion. A permit holder may request and be issued a temporary certificate of occupancy if the conditions and requirements of the North Carolina State Building Code are met.

(c) Any person who owns, leases, or controls a building and occupies or allows the occupancy of the building or a part of the building before a certificate of compliance or temporary certificate of occupancy has been issued pursuant to subsection (a) or (b) of this section is guilty of a Class 1 misdemeanor.

Sec. 10-44 - Periodic inspections.

The building inspection department may make periodic inspections, subject to the governing board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its planning and development regulation jurisdiction. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-1207. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

Sec. 10-45 - Defects in buildings to be corrected.

When a building inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be the inspector's duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property

Sec. 10-46 - Unsafe buildings condemned.

(a) Designation of Unsafe Buildings. - Every building that shall appear to the building inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress, or other causes shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b) Non-residential Building or Structure. - In addition to the authority granted in subsection (a) of this section, an building inspector may declare a non-residential building or structure within a community development target area to be unsafe if it meets all of the following conditions:

(1) It appears to the building inspector to be vacant or abandoned.

(2) It appears to the building inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, or fire or safety hazard, to be a danger to children, or

to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) Notice Posted on Structure. - If a building inspector declares a non-residential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of an urban progress zone under G.S. 143B-437.09, a "non-residential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the board of commissioners as being in special need of revitalization for the benefit and welfare of its citizens.

Sec. 10-47 - Removing notice from condemned building.

If any person shall remove any notice that has been affixed to any building or structure by a building inspector and that states the dangerous character of the building or structure, that person shall be guilty of a Class 1 misdemeanor.

Sec. 10-48 - Action in event of failure to take corrective action.

If the owner of a building or structure that has been condemned as unsafe pursuant to this ordinance, fails to take prompt corrective action, the building inspector shall give written notice, by certified mail to the owner's last known address or by personal service, of all of the following:

(1) That the building or structure is in a condition that appears to meet one or more of the following conditions:

a. Constitutes a fire or safety hazard.

b. Is dangerous to life, health, or other property.

c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.

d. Has a tendency to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(2) That an administrative hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner will be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

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 is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the local government's area of jurisdiction at least once not later than one week prior to the hearing.

Sec. 10-49 - Order to take corrective action.

If, upon a hearing held pursuant to the notice prescribed in section 10-48, the building inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, the inspector shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective

conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe, provided that where the inspector finds that there is imminent danger to life or other property, the inspector may order that corrective action be taken in such lesser period as may be feasible.

Sec. 10-50 - Appeal; finality of order if not appealed.

Any owner who has received an order under section 10-49 may appeal from the order to the Board of Commissioners by giving notice of appeal in writing to the building inspector and to the clerk to the board within 10 days following issuance of the order. In the absence of an appeal, the order of the inspector is final. The Board of Commissioners, as appropriate, shall hear an appeal in accordance with G.S. 160D-406 and render a decision within a reasonable time. The board may affirm, modify and affirm, or revoke the order.

Sec. 10-51 - Failure to comply with order.

If the owner of a building or structure fails to comply with an order issued pursuant to section 10-49 from which no appeal has been taken or fails to comply with an order of the Board of Commissioners following an appeal, the owner is guilty of a Class 1 misdemeanor.

Sec. 10-52 - Enforcement.

(a) Action Authorized. - Whenever any violation is denominated a misdemeanor under the provisions of this Article, the Burke County, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Removal of Building. - In the case of a building or structure declared unsafe under section 10-46 or an ordinance adopted pursuant to section 10-46, a local government may, in lieu of taking action under subsection (a) of this section, cause the building or structure to be removed or demolished. The amounts incurred by Burke County in connection with the removal or demolition are a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of Chapter 160A of the General Statutes. If the building or structure is removed or demolished by the local government, the local government shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The local government shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) Additional Lien. - The amounts incurred by Burke County in connection with the removal or demolition are also a lien against any other real property owned by the owner of the building or structure and located within the local government's planning and development regulation jurisdiction, and for cities without extraterritorial planning and development jurisdiction, within one mile of the city limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

(d) Nonexclusive Remedy. - Nothing in this section shall be construed to impair or limit the power of Burke County to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Sec. 10-53 - Records and reports.

The building inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance or occupancy granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the Department of Natural and Cultural Resources. Periodic reports shall be submitted to the governing board and to the State Fire Marshal as they shall by ordinance, rule, or regulation require.

Sec. 10-54 - Appeals.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of the building inspection department pertaining to the North Carolina State Building Code or other State building laws shall be taken to the State Fire Marshal or the State Fire Marshal's designee or other official specified in G.S. 143-139 by filing a written notice with the State Fire Marshal and with the building inspection department within a period of 10 days after the order, decision, or determination. Further appeals may be taken to the Building Code Council or Residential Code Council or to the courts as provided by law.

Sec. 10-55 - Regulation authorized as to repair, closing, and demolition of non-residential buildings or structures; order of public officer.

(a) Authority. – The Burke County Board of Commissioners by this ordinance adopts and seeks to enforce minimum regulations for non-residential buildings or structures. These non-residential buildings or structures are to be kept in a condition to meet minimum standards for maintenance, sanitation, and safety. Buildings must not fall into any condition that will be dangerous and injurious to public health, safety, and welfare. A structure, once identified by complaint or by inspection by a public officer and after follow up and hearing for the owner, may result in a necessity to repair, close, or demolish the structure. These regulations apply within the planning and development regulation jurisdiction of Burke County. The regulations are enforced by a public officer of Burke County which includes the individuals who are listed by definition in this ordinance.

(b) Investigation. - Whenever it appears to the public officer that any non-residential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards they shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

(c) Complaint and Hearing. - If the preliminary investigation discloses evidence of a violation of the minimum standards, the public officer shall issue and cause to be served upon the owner of and parties in interest in the non-residential building or structure a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the public officer, or his or her designated agent, at a place within the county scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity are not controlling in hearings before the public officer.

(d) Order. - If, after notice and hearing, the public officer determines that the non-residential building or structure has not been properly maintained so that the safety or health of its occupants

or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(e) Limitations on Orders.

(1) An order may require the owner to repair, alter, or improve the non-residential building or structure in order to bring it into compliance with the minimum standards established by the Board of Commissioners or to vacate and close the said structure for any use.

(2) An order may require the owner to remove or demolish the non-residential building or structure if the cost of repair, alteration, or improvement of the structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the said structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Board of Commissioners determines, after an administrative hearing as provided by ordinance, that the non-residential building or structure is of individual significance or contributes to maintaining the character of the district, and the non-residential building or structure has not been condemned as unsafe, the order may require that the non-residential structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing board.

(3) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(f) Action by Board of Commissioners Upon Failure to Comply With Order. -

(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 of commissioners 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. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the 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 non-residential 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 building or structure so closed a placard with the following words: "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) If the owner fails to comply with an order to remove or demolish the non-residential building or structure, the Board of Commissioners 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 governing board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the 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.

(g) Action by Board of Commissioners Upon Abandonment of Intent to Repair. - If the Board of Commissioners has adopted an ordinance or the public officer has 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 a period of two years pursuant to the ordinance or order, the governing board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Board of Commissioners may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) 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 fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.

(2) If the cost to repair the non-residential structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

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 governing board may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

(h) Service of Complaints and Orders. - Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. 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 sufficient if the certified mail is refused but the regular mail is not returned by the post office within 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 officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, 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 local government at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(i) Liens. -

(1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer are 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 Article 10 of Chapter 160A of the General Statutes.

(2) If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(3) If the non-residential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the board of commissioners to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(j) Ejectment. - If any occupant fails to comply with an order to vacate a non-residential building or structure, the public officer may file a civil action in the name of Burke County 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-defendant any person occupying the non-residential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subsection (f) of this section to vacate the occupied non-residential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the non-residential building or structure 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 under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. 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 pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the board of commissioners has ordered the public officer to proceed to exercise his or her duties under subsection (f) of this section to vacate and close or remove and demolish the non-residential building or structure.

(k) Civil Penalty. - The board of commissioners may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties does not limit the use of any other lawful remedies available to the governing board for the enforcement of any ordinances adopted pursuant to this section.

(l) Supplemental Powers. - The powers conferred by this section are supplemental to the powers conferred by any other law. The board of commissioners authorizes the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:

(1) To investigate non-residential structures in the local government's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.

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

(3) To enter upon premises pursuant to subsection (b) of this section 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 officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing board.

(5) To delegate any of his or her functions and powers under the ordinance to other officers and agents.

(m) Appeals. - Appeals from any decision or order of the public officer may be taken to the board of commissioners. Any person aggrieved by a decision or order of the public officer has the remedies provided in section 10-81.

(n) Funding. - Burke County board of commissioners is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing board.

(o) No Effect on Just Compensation for Taking by Eminent Domain. - Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

(p) Definitions. - As used in this section, the following definitions apply:

(1) Parties in interest. - All individuals, associations, and corporations who have interests of record in a non-residential building or structure and any who are in possession thereof.

(2) Vacant industrial warehouse. - 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.

(3) Vacant manufacturing facility. - 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.

~~*DIVISION 2. MINIMUM STANDARDS*~~

ARTICLE II, DIVISION A – MINIMUM HOUSING CODE

Sec. 10-75. Authorization.

(a) Dwellings. - The existence and occupation of dwellings that are unfit for human habitation are inimical to the welfare and dangerous and injurious to the health and safety of the people of this State. A public necessity exists for the repair, closing, or demolition of such dwellings. Whenever Burke County finds that there exists in the planning and development regulation jurisdiction dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light, or sanitary facilities; or other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the local government, power is conferred upon Burke County to exercise its police powers to repair, close, or demolish the dwellings consistent with the provisions of this Article.

(b) Abandoned Structures. – Burke County Board of Commissioners have adopted this ordinance covering minimum housing standards in the planning and development jurisdiction of the county. If residential structures are found to be 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 this ordinance provides for the repair, closing, or demolition of any abandoned structure. The ordinance may provide for the repair, closing, or demolition of such structure pursuant to the same provisions and procedures as are prescribed by this Article for the repair, closing, or demolition of dwellings found to be unfit for human habitation.

Sec. 10-76 Definitions.

The following definitions apply in this Article:

(1) Owner. - The holder of the title in fee simple and every mortgagee of record.

(2) Parties in interest. - All individuals, associations, and corporations that have interests of record in a dwelling and any that are in possession of a dwelling.

(3) Public authority. - Any housing authority or any officer that is in charge of any department or branch of the government of the city, county, or State relating to health, fire, building regulations, or other activities concerning dwellings in the local government.

(4) Public officer. - The officer of the Community Development Department authorized by this ordinance to exercise the powers prescribed by the ordinances and by this Article.

Sec. 10-77 Ordinance authorized as to repair, closing, and demolition; order of public officer.

Upon the adoption of this ordinance finding that dwelling conditions of the character described in section 10-75 exist, the Burke County Board of Commissioners is authorizing the enforcement of ordinances relating to dwellings within the planning and development regulation jurisdiction that are unfit for human habitation. This ordinance includes the following provisions:

(1) Designation of enforcement officer. - One or more public officers are designated to exercise the powers prescribed by the ordinance.

(2) Investigation, complaint, hearing. - Whenever a petition is filed with the public officer by a public authority or by at least five residents of the jurisdiction charging that any dwelling is unfit for human habitation or when it appears to the public officer that any dwelling is unfit for human habitation, the public officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that an administrative

hearing will be held before the public officer, or the officer's designated agent, at a place within the county in which the property is located. The hearing shall be not less than 10 days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the public officer.

(3) Orders. - If, after notice and an administrative hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, the officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:

a. If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling set at 50% of the current value, requiring the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under subdivision (4) of this section.

b. If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, the owner will be required to remove or demolish the dwelling. However, notwithstanding any other provision of law, if the dwelling is located in a historic district and the Historic District Commission determines, after an administrative hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160D-949.

(4) Repair, closing, and posting. - If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and the public officer may post on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this sub section shall not be exercised until the board of commissioners shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(5) Demolition. - 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. The duties of the public officer set forth in this subdivision shall not be exercised until the housing review board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No

such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(6) Abandonment of Intent to Repair. - If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subdivision (4) of this section or after a 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 subdivision, then the housing review board may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of Burke County in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the board of commissioners 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 percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.

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 percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the register of deeds in Burke County wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

(7) Liens. -

a. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer 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 Article 10 of Chapter 160A of the General Statutes.

b. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.

c. If the dwelling is removed or demolished by the public officer, the local government shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the

removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(8) Civil action. - If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of Burke County to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. If the summons appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the board of commissioners pursuant to subsection (5) of this section authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing board has ordered the public officer to proceed to exercise his duties under subdivisions (4) and (5) of this section to vacate and close or remove and demolish the dwelling.

(9) Additional notices to affordable housing organizations. - Whenever a determination is made pursuant to subdivision (3) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the 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. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition.

Sec. 10-78 Standards.

The public officer may determine that a dwelling is unfit for human habitation if the officer finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the jurisdiction. Defective conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness.

Sec. 10-79 Service of complaints and orders.

(a) Complaints or orders issued by a public officer pursuant to an ordinance adopted under this Article shall be served upon persons either personally or by certified mail. 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 sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 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.

(b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail, and the public officer 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 jurisdiction at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

Sec. 10-80 Periodic inspections.

(a) Except as provided in subsection (b) of this section, the building inspection department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. However, when the building inspection department determines that a safety hazard exists in one of the dwelling units within a multifamily building, which in the opinion of the inspector poses an immediate threat to the occupant, the department may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists. For purposes of this section, the term "reasonable cause" means any of the following:

(i) the landlord or owner has a history of more than two verified violations of the housing ordinances or codes within a 12-month period,

(ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected,

(iii) the building inspection department has actual knowledge of an unsafe condition within the building, or

(iv) violations of the local ordinances or codes are visible from the outside of the property.

In conducting inspections authorized under this section, the building inspection department shall not discriminate between single-family and multifamily buildings or between owner-occupied and tenant-occupied buildings. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(b) Burke County may require periodic inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the Board of Commissioners. However, the total aggregate of targeted areas in the local government jurisdiction at any one time shall not be greater than 1 square mile or five percent (5%) of the area within the local government jurisdiction, whichever is greater. A targeted area

designated by the board of commissioners shall reflect Burke County's stated neighborhood revitalization strategy and shall consist of property that meets the definition of a "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a), respectively, except that for purposes of this subsection, the planning board is not required to make a determination as to the property. The board of commissioners shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a legislative hearing regarding the plan, (ii) hold a legislative hearing regarding the plan, and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards.

(c) In no event may Burke County do any of the following:

(i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 of this Chapter from the local government to lease or rent residential real property or to register rental property with the local government, except for those individual properties that have more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period, or upon the property being identified within the top ten percent (10%) of properties with crime or disorder problems as set forth in a local ordinance,

(ii) require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy,

(iii) levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties, unless expressly authorized by general law or applicable only to an individual rental unit or property described in clause (i) of this subsection and the fee does not exceed five hundred dollars ($500.00) in any 12-month period in which the unit or property is found to have verified violations,

(iv) provide that any violation of a rental registration ordinance is punishable as a criminal offense, or

(v) require any owner or manager of rental property to submit to an inspection before receiving any utility service provided by the local government. For purposes of this section, the term "verified violation" means all of the following:

(1) The aggregate of all violations of housing ordinances or codes found in an individual rental unit of residential real property during a 72-hour period.

(2) Any violations that have not been corrected by the owner or manager within 21 days of receipt of written notice from the local government of the violations. Should the same violation occur more than two times in a 12-month period, the owner or manager may not have the option of correcting the violation. If the housing code provides that any form of prohibited tenant behavior constitutes a violation by the owner or manager of the rental property, it shall be deemed a correction of the tenant-related violation if the owner or manager, within 30 days of receipt of written notice of the tenant-related violation, brings a summary ejectment action to have the tenant evicted.

(d) If a property is identified by Burke County as being in the top ten percent (10%) of properties with crime or disorder problems, they shall notify the landlord of any crimes, disorders, or other violations that will be counted against the property to allow the landlord an opportunity to attempt to correct the problems. In addition, Burke County and the county sheriff's office shall assist the

landlord in addressing any criminal activity, which may include testifying in court in a summary ejectment action or other matter to aid in evicting a tenant who has been charged with a crime. If Burke County or the sheriff's office does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or disorder problem as set forth in the local ordinance, and the property may not be included in the top ten percent (10%) of properties as a result of that tenant's behavior or activity.

(e) If Burke County takes action against an individual rental unit under this section, the owner of the individual rental unit may appeal the decision to the board of commissioners. The board of commissioners shall fix a reasonable time for hearing appeals, shall give due notice to the owner of the individual rental unit, and shall render a decision within a reasonable time. The owner may appear in person or by agent or attorney. The board may reverse or affirm the action, wholly or partly, or may modify the action appealed from, and may make any decision and order that in the opinion of the board ought to be made in the matter.

Sec. 10-81 Remedies.

(a) An appeal from any decision or order of the public officer is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, board, or commission of Burke County. Any appeal from the public officer shall be taken within 10 days from the rendering of the decision or service of the order by filing with the Burke County Clerk to the Board a notice of appeal that shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the public officer shall forthwith transmit to the Board of Commissioners all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the public officer refusing to allow the person aggrieved thereby to do any act, the decision remains in force until modified or reversed. When any appeal is from a decision of the public officer requiring the person aggrieved to do any act, the appeal has the effect of suspending the requirement until the hearing by the board, unless the public officer certifies to the board, after the notice of appeal is filed with the officer, that because of facts stated in the certificate, a copy of which shall be furnished to the appellant, a suspension of the requirement would cause imminent peril to life or property. In that case the requirement is not 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 public officer, by the board, or by a court of record upon petition made pursuant to subsection (f) of this section.

(b) The Board of Commissioners shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall 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 any decision and order that in its opinion ought to be made in the matter, and, to that end, it has all the powers of the public officer, but the concurring vote of four members of the board is necessary to reverse or modify any decision or order of the public officer. The board also has power in passing upon appeals, when unnecessary hardships would result from 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 is observed, public safety and welfare secured, and substantial justice done.

(c) Every decision of the Board of Commissioners is subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.

(d) Any person aggrieved by an order issued by the public officer or a decision rendered by the Board of Commissioners may petition the superior court for an injunction restraining the public officer from carrying out the order or decision and the court may, upon such petition, issue a

temporary injunction restraining the public officer pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days and shall be given preference over other matters on the court's 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 is not necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

(e) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Article or of any ordinance or code adopted under authority of this Article or any valid order or decision of the public officer or board made pursuant to any ordinance or code adopted under authority of this Article, the public officer or board may institute any appropriate action or proceedings 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.

Sec. 10-82 Compensation to owners of condemned property.

Nothing in this Article shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

Sec. 10-83 Additional powers of public officer.

This ordinance as adopted authorizes the public officer 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 herein granted:

(1) To investigate the dwelling conditions in the local government's planning and development regulation jurisdiction 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 officers, agents, and employees necessary to carry out the purposes of the ordinances.

(5) To delegate any of his or her functions and powers under the ordinance to other officers and other agents.

Sec. 10-84 Administration of ordinance.

A local government adopting an ordinance under this Article shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings for the purpose of determining the fitness of dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this Article. The local government is authorized to make appropriations from its revenues necessary for this purpose and may accept and apply grants or donations to assist it.

Sec. 10-85 Supplemental nature of Article.

Nothing in this Article shall be construed to abrogate or impair the powers of the courts or of any department of any local government to enforce any provisions of its charter or its ordinances or regulations nor to prevent or punish violations thereof. The powers conferred by this Article shall be supplemental to the powers conferred by any other law in carrying out the provisions of the ordinances.

ARTICLE II, DIVISION B – MINIMUM HOUSING STANDARDS

Sec. 10-86 ~~10-56~~. Fitness for dwellings, dwelling units.

Every dwelling and dwelling unit intended for use as a human habitation, occupancy or use, or held out for use as human habitation, shall comply with all the minimum standards of fitness for human habitation in accordance with the applicable state building codes. No person shall let to another for occupancy, or use as a place for human habitation, any dwelling or dwelling unit which does not comply with all the minimum standards of fitness for human habitation and all of the requirements of this division for which a valid certificate of compliance has been issued. Unoccupied structures shall not be deteriorated as to become a health or safety hazard. The provisions of this Code shall apply to all manufactured housing and modular-housing units used as residential housing in excess of 30 days. Recreational vehicles (RVs) shall not be occupied for residential housing.

(Code 1993, § 10-56; Ord. of 4-2-1991(2), § 3; Ord. of 6-6-2000(1))

Sec. 10-87 ~~10-57~~. Structural condition.

(a) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not excessively list, lean or buckle and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.

(b) Floors and roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(c) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged so as to dangerously reduce their intended load-bearing characteristics.

(d) Steps, stairs, landings, porches, or other parts of appurtenances shall be maintained in such condition that they will not fall or collapse.

(e) Adequate egress in case of fire or panic shall be provided as per specifications of the North Carolina State Residential Building Code, Volume 7.

(f) Interior walls and ceilings of all rooms, closets and hallways shall be finished with suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner as to enable the occupants to maintain reasonable privacy between various spaces.

(g) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weathertight, and rodentproof. Roof coverings shall be maintained in good condition. All new roofs must be installed in accordance with the North Carolina State Residential Building Code, Volume 7.

(h) There shall be no chimneys or parts thereof which are in danger of falling or in such condition or location as to constitute a fire hazard.

(i) There shall be no use of the ground for floors or wood floors on the ground.

(Code 1993, § 10-57; Ord. of 4-2-1991(2), § 4; Ord. of 6-6-2000(1))

Sec. 10-88 ~~10-58~~. Basic equipment and facilities.

(a) *Plumbing system.* The plumbing system of each dwelling or dwelling unit shall conform to the following:

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal systems.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and an adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply. All water piping shall be protected from freezing by being properly installed in protected spaces. Installations of all water heating appliances shall be capable of supplying a continuous source of water, on demand, to all the required fixtures at a temperature of not more than 120 degrees Fahrenheit and not less than 100 degrees Fahrenheit.

(3) All plumbing fixtures shall be maintained in a good state of repair and condition and meet the standards of the North Carolina State Residential Building Code, Volume 7.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of the dwelling unit. The water closet and tub or shower shall be located in a room affording privacy to the user.

(b) *Heating system.* Every dwelling unit shall have facilities for providing heat in accordance with either subsection (b)(1) or (2) of this section as follows:

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 68 degrees Fahrenheit measured at a point three feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents, whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 68 degrees Fahrenheit measured three feet above the floor during ordinary winter conditions.

(c) *Electrical system.* The electrical system of each dwelling or dwelling unit shall conform to the following:

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor- or wall-type electric convenience receptacles installed in compliance with the North Carolina State Residential Building Code, Volume 7. There shall be installed in every bathroom, water closet room, laundry room, and furnace room at least one supplied ceiling- or wall-type electric light fixture in good working order. If wall or ceiling light fixtures are not provided in any habitable room, then each habitable room shall contain at least three floor- or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used without hazard to property or persons.

(Code 1993, § 10-58; Ord. of 4-2-1991(2), § 5; Ord. of 6-6-2000(1))

Sec. 10-89 ~~10-59~~. Ventilation.

(a) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors for adequate ventilation. At least one window in every habitable room shall be of such size and location to allow egress by an average adult in the event of fire or other emergency. The minimum window area, measured between stops, shall be eight percent of the floor area of such room. 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 15 percent of the total floor area of such room. Exception: Less than eight percent of the total floor area is acceptable, provided there is mechanical ventilation.

(b) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size, as required, or shall have other approved equivalent ventilation.

(c) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements as in 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.

(d) *Smoke detectors.* Smoke detectors shall be required outside of each sleeping area in the immediate vicinity of the bedrooms.

(Code 1993, § 10-59; Ord. of 4-2-1991(2), § 6; Ord. of 6-6-2000(1))

Sec. 10-90 ~~10-60~~. Space, use and location.

(a) *Room sizes.* Every dwelling shall contain at least the minimum room size in each habitable room as required by the state residential building code.

(1) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants and at least 75 square feet of additional habitable floor area for each additional occupant.

(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area. Every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(b) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet, six inches, measured from the finished floor to the finished ceiling.

(c) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4.5 feet shall not be considered as part of the floor area in computing the total area of the room to determine maximum permissible occupancy.

(d) *Cellar.* No cellar shall be used for living purposes.

(e) *Basements.* No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight.

(2) The total window standards, total openable window area and ceiling height are equal to those required for habitable rooms.

(3) The required minimum window standards of every habitable room are entirely above the grade adjoining such window area, except where the window faces a stairwell, window well or accessway.

(4) Every sleeping room shall have at least one window for emergency egress, which complies with the state residential building code in effect at the time of construction.

(Code 1993, § 10-60; Ord. of 4-2-1991(2), § 7; Ord. of 6-6-2000(1))

Sec. 10-91 ~~10-61~~. Safe and sanitary maintenance.

(a) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodentproof, shall be kept in sound condition and good repair, shall be capable of affording privacy, shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(b) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodentproof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(c) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight, rodentproof, and shall be kept in sound working condition and good repair. Minimum size for all interior doorways shall be 30 inches for all occupied rooms, including living room, dining room, kitchen, etc., but not including closets, bathrooms, etc. Doors shall be provided at all doorways leading to bedrooms, toilet rooms and bathrooms, and all rooms adjoining a public space. All doors leading to the exterior must have an apparatus for opening and closing the door on both sides, a locking mechanism and shall be kept in sound working condition and good repair.

(d) *Stairs, porches and appurtenances.* Every outside and inside stair, porch and any appurtenances thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair. Handrails and guardrails must be installed per the guidelines of the North Carolina State Residential Building Code, Volume 7.

(e) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(f) *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 condition.

(g) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage of surface water to prevent accumulation of stagnant water and to allow positive drainage around the foundation of the dwelling unit.

(h) *Noxious weeds.* Every yard and all exterior property shall be kept free of species of weeds or plant growth, which are noxious or detrimental to health.

(i) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the code in force at the time of construction.

(Code 1993, § 10-61; Ord. of 4-2-1991(2), § 8; Ord. of 6-6-2000(1))

Sec. 10-92 ~~10-62~~. Control of insects, rodents and infestations.

(a) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

(b) *Infestation.* Every occupant of a dwelling 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 occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodentproof or reasonably insectproof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more rooms of the dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(c) *Rubbish storage and garbage disposal.* Every dwelling unit shall be supplied with adequate rubbish storage facilities. Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers.

(d) *Screens.* For protection against mosquitoes, flies and other insects, every door intended for ventilation and opening directly from a dwelling unit to outdoor space shall have installed screens and a self-closing device. Windows designed to open shall likewise be supplied with screens installed so as to not be permanently affixed to the window frame, sash, or structural members of the dwelling unit, and shall be maintained in good condition without rips or tears.

(Code 1993, § 10-62; Ord. of 4-2-1991(2), § 9; Ord. of 6-6-2000(1))

Sec. 10-93 ~~10-63~~. Roominghouses.

All provisions of this article shall be applicable to roominghouses and bed and breakfast establishments, and to every person who operates a roominghouse or a bed and breakfast establishment or who operates or lets to another for occupancy any rooming unit in any roominghouse or bed and breakfast establishment, except as provided in the following subsections:

(1) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a roominghouse wherever such facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar or uninhabitable basement.

(2) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area. Every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over, and at least 35 square feet of floor area for each occupant under 12 years of age.

(3) *Sanitary conditions.* The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for the sanitary maintenance of every other part of the roominghouse. He shall further be responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the roominghouse is contained is leased or occupied by the operator.

(4) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (1) of this section shall be located within the roominghouse and within a room which affords privacy and is separate from the habitable rooms and which is accessible from a common hall and without going outside the roominghouse or through any other room herein.

(Code 1993, § 10-63; Ord. of 4-2-1991(2), § 10; Ord. of 6-6-2000(1)

Adopted this 16th day of February 2026.

_____
Jeffrey C. Brittain, Chairman
Burke Co. Board of Commissioners

Attest:

_____
Kay Honeycutt Draughn, CMC, NCMCC
Clerk to the Board