ROCKY MOUNT, NC
THE CENTER OF IT ALL

ROCKY MOUNT CITY COUNCIL

COMMITTEE OF THE WHOLE MEETING

MONDAY, NOVEMBER 28, 2022

CITY COUNCIL
COMMITTEE OF THE WHOLE

MONDAY, NOVEMBER 28, 2022
5:00 PM

AGENDA

1. FY 2022 Audit Review	Martin Starnes & Ken Hunter
2. Purchased Gas Adjustment	Ken Hunter
3. Housing Code Update	Peter Varney
4. Cemetery Ordinance Update	Peter Varney

Item #2023

ROCKY MOUNT
CITY MANAGER'S OFFICE
THE CENTER OF IT ALL

City Manager's Office
City Council Agenda

To: The Honorable Mayor and City Council

Date: 11/28/22

Subject: Overview of the Fiscal Year 2022 Audited Financial Statements

Summary of Requested Action:

Staff requests that Council receives the attached presentation from Martin-Starnes & Associates, CPAs, P.A., discussing the city's Fiscal Year 2022 Audited Financial Statements.

Department Requesting Action: Finance

Budgetary Impact: None

City Manager's Recommendation: Receive the presentation

MEMORANDUM

ROCKY MOUNT
FINANCE
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To: Honorable Mayor and City Council

Cc: Peter Varney, Interim City Manager

From: Abdul Baloch, Interim Finance Director

Date: 11/28/22

Re: The fiscal Year 2022 Audited Financial Statements

The independent financial auditors have completed the financial audit of the fiscal year ending June 30, 2022. Tonya Thompson with Martin Starnes and Associates will provide an overview of their audit. Attached is the independent auditor's presentation.

The Annual Comprehensive Report and Compliance letter are available on the city's website. These reports are also available electronically and can be sent to the Council members.

City of Rocky Mount

2022 Audited Financial Statements

ROCKY MOUNT, NC
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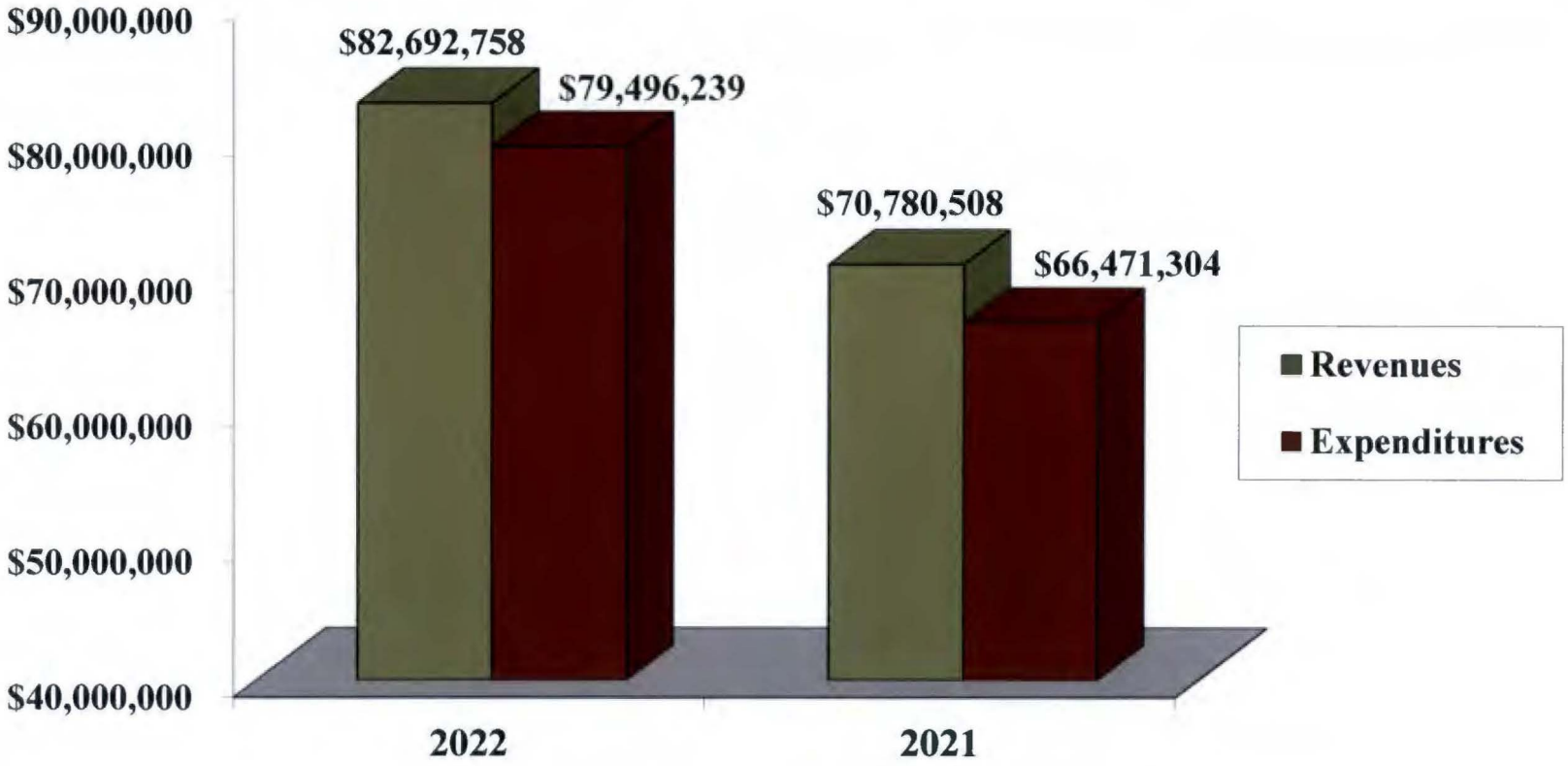
MARTIN ♦ STARNES
& ASSOCIATES, CPAs, P.A.

Audit Highlights

- Unmodified opinion
- Cooperative staff

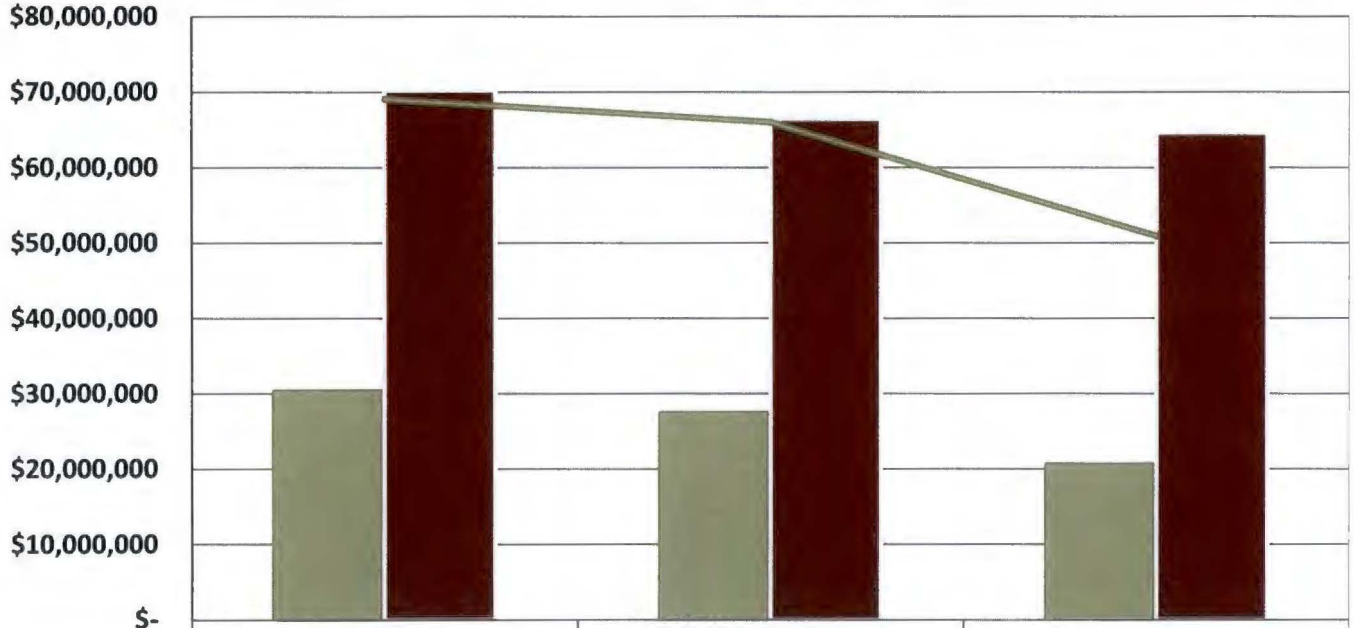
GENERAL FUND ONLY



FUND BALANCE AVAILABLE - GENERAL FUND

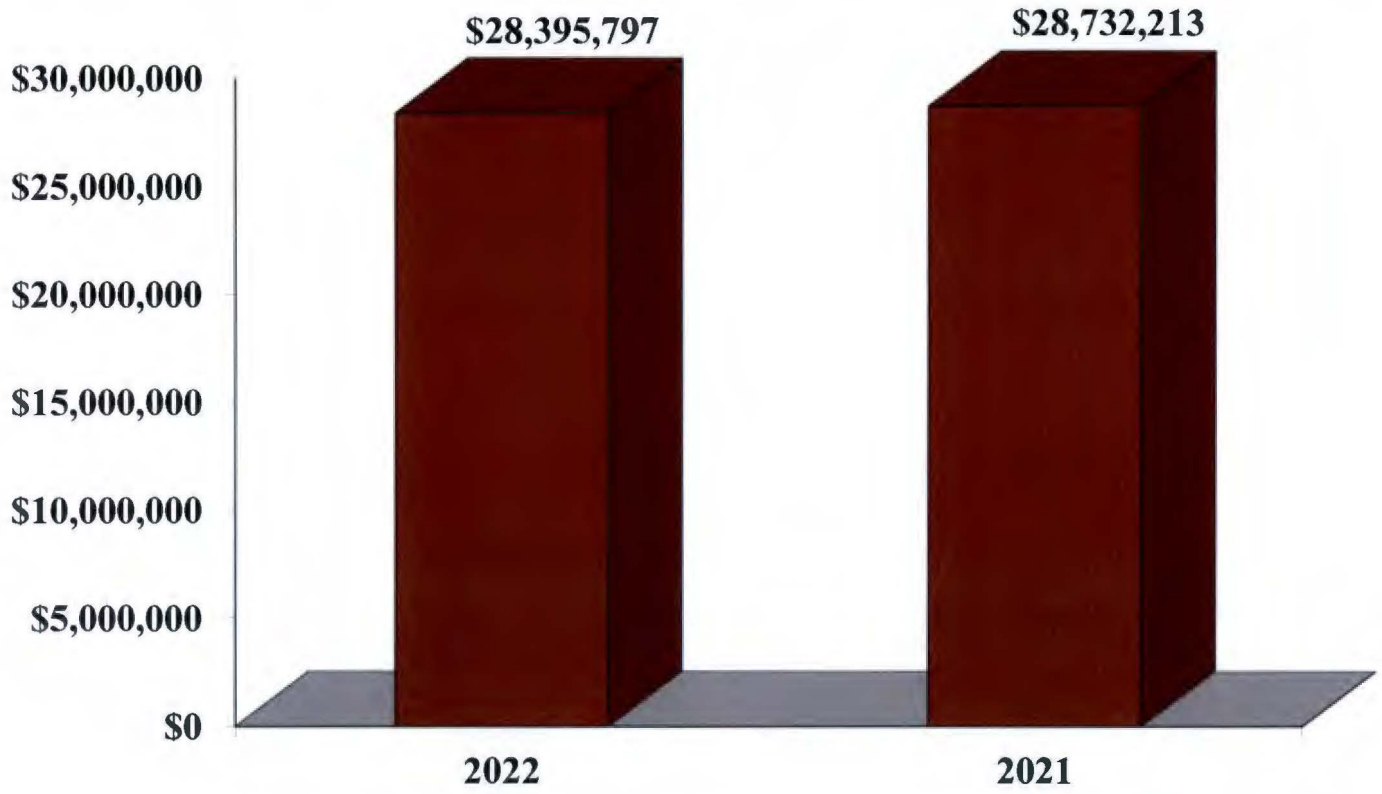
	2022	2021	2020
Total Fund Balance	$ 57,522,586	$ 53,330,851	$ 52,839,524
Non spendable	(17,155,917)	(17,071,142)	(17,053,667)
Stabilization by State Statute	(7,535,970)	(7,421,384)	(6,911,740)
Powell Bill	(2,484,571)	(1,404,487)	(8,287,309)
Available Fund Balance	$ 30,346,128	$ 27,433,838	$ 20,586,808
Expenditures+Transfers-Proceeds	$ 70,945,475	$ 71,731,386	$ 65,427,415
Powell Bill Expenditures	(688,068)	(5,260,082)	(795,680)
Net Expenditures	$ 70,257,407	$ 66,471,304	$ 64,631,735
AFB as % of Net Expenditures	43.2%	41.3%	31.9%

FUND BALANCE AVAILABLE - GENERAL FUND

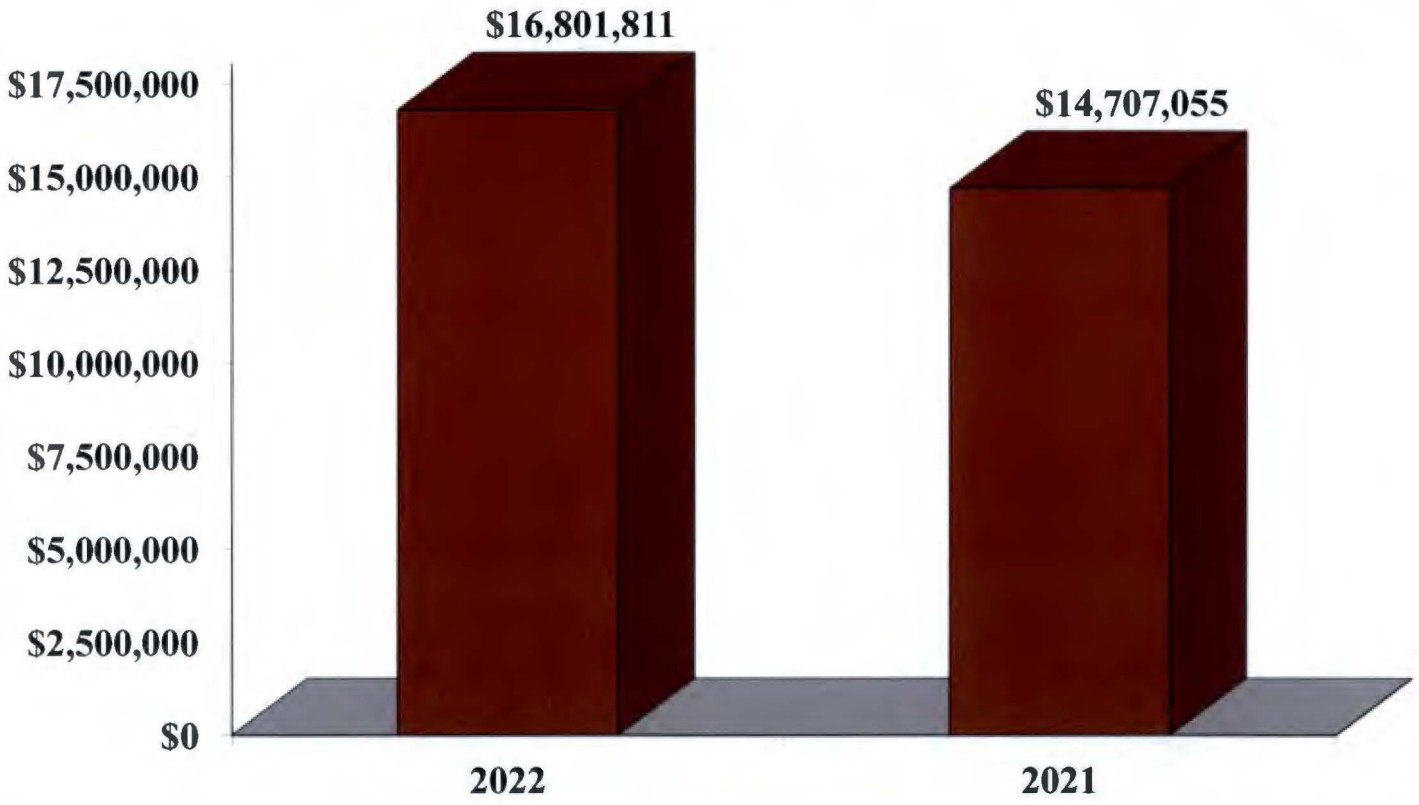


	2022	2021	2020
Fund Balance Available Excluding Powell Bill	$30,346,128	$27,433,838	$20,586,808
Net Expenditures	$70,257,407	$66,471,304	$64,631,735
FBA as a % of Net Expenditures	43.2%	41.3%	31.9%

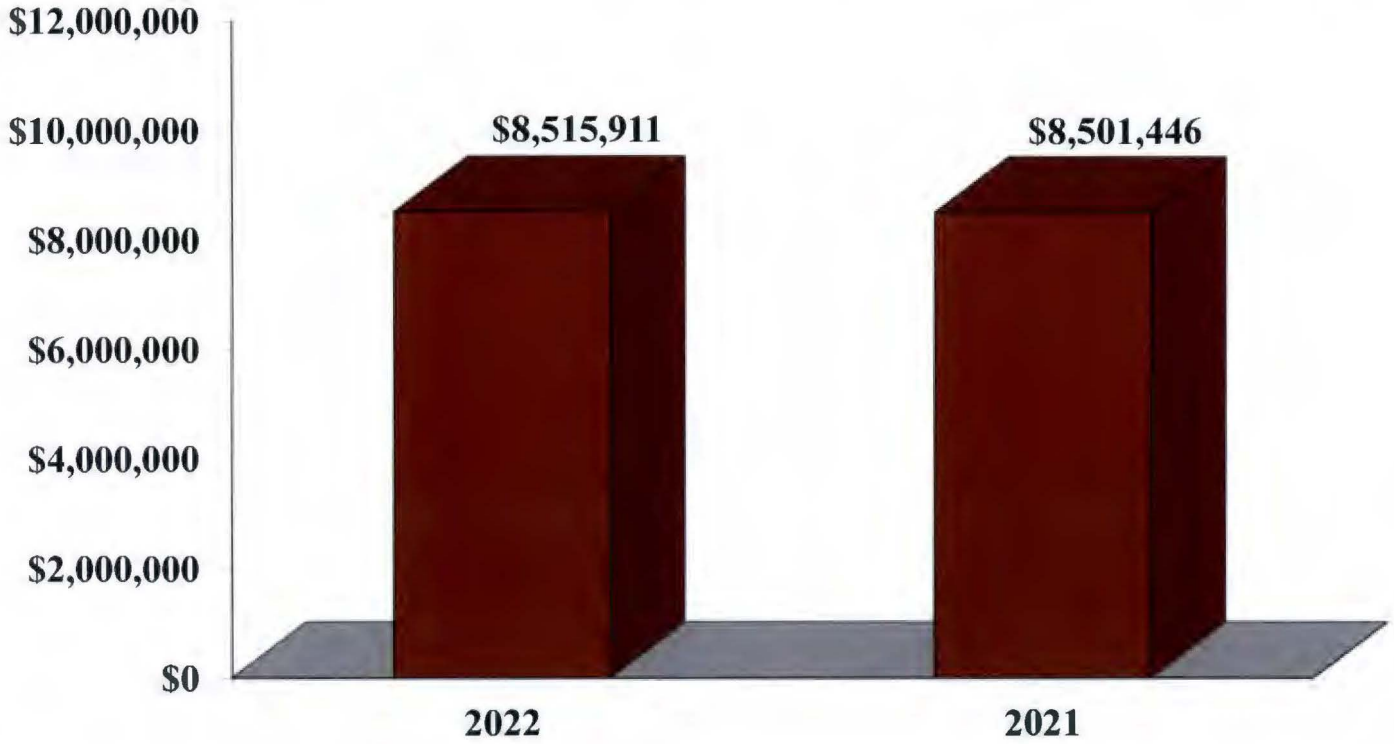
AD VALOREM TAXES – GENERAL FUND



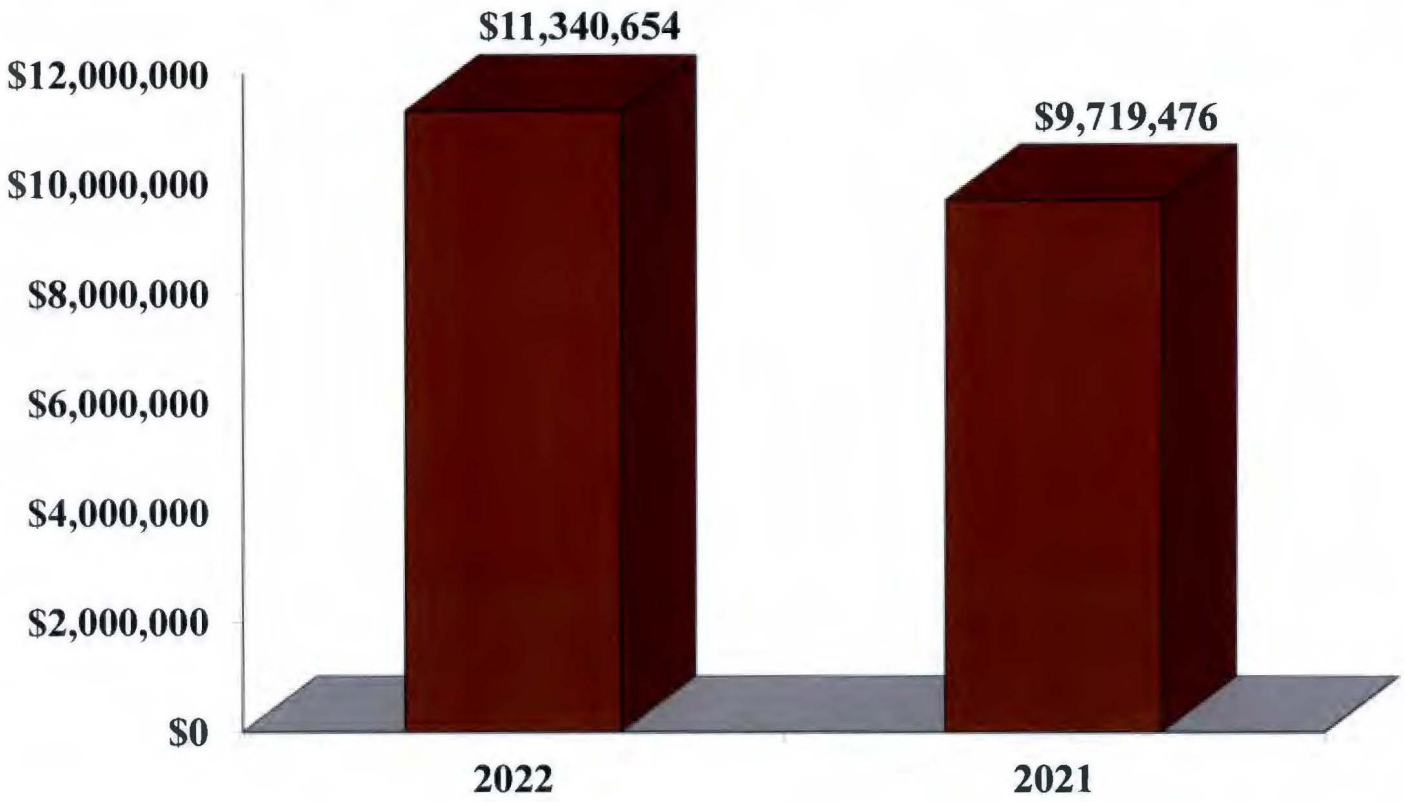
LOCAL OPTION SALES TAX – GENERAL FUND



INTERGOVERNMENTAL REVENUES – GENERAL FUND
(EXCLUDES LOCAL OPTION SALES TAX AND POWELL BILL)



SALES AND SERVICES – GENERAL FUND



ELECTRIC FUND

	2022	2021	Dollar Variance
Total Revenues & OFS	$ 76,777,060	$ 79,754,682	$ (2,977,622)
Total Expenditures & OFU	$ 80,614,168	$ 74,651,759	$ 5,962,409
Net Revenue/Expenditures	$ (3,837,108)	$ 5,102,923	$ (8,940,031)
Available Fund Balance	$ 8,578,141	$ 11,423,006	$ (2,844,865)

GAS FUND

	2022	2021	Dollar Variance
Total Revenues & OFS	$ 24,208,874	$ 22,026,911	$ 2,181,963
Total Expenditures & OFU	$ 26,347,405	$ 20,543,152	$ 5,804,253
Net Revenue/Expenditures	$ (2,138,531)	$ 1,483,759	$ (3,622,290)
Available Fund Balance	$ 6,422,621	$ 9,436,764	$ (3,014,143)

WATER FUND

	2022	2021	Dollar Variance
Total Revenues & OFS	$ 11,961,850	$ 11,561,209	$ 400,641
Total Expenditures & OFU	$ 11,179,150	$ 11,977,386	$ (798,236)
Net Revenue/Expenditures	$ 782,700	$ (416,177)	$ 1,198,877
Available Fund Balance	$ 6,935,188	$ 8,271,627	$ (1,336,439)

SEWER FUND

	2022	2021	Dollar Variance
Total Revenues & OFS	$ 13,405,852	$ 15,493,390	$ (2,087,538)
Total Expenditures & OFU	$ 15,410,031	$ 18,050,427	$ (2,640,396)
Net Revenue/Expenditures	$ (2,004,179)	$ (2,557,037)	$ 552,858
Available Fund Balance	$ 2,577,805	$ 5,121,664	$ (2,543,859)

STORMWATER FUND

	2022	2021	Dollar Variance
Total Revenues & OFS	$ 4,854,057	$ 4,212,451	$ 641,606
Total Expenditures & OFU	$ 4,162,095	$ 3,330,303	$ 831,792
Net Revenue/Expenditures	$ 691,962	$ 882,148	$ (190,186)
Available Fund Balance	$ 3,805,333	$ 4,716,126	$ (910,793)

KEY PERFORMANCE INDICATOR OF CONCERN

- Water & Sewer Fund Net Loss (excluding depreciation, including debt service)
- Management's CAP:
  - 8.8% rate increase 7/1/22
  - Commercial rate review/adjust
  - COSA

General Performance Indicators

- Timely audit submission
- Stable property tax valuation & collection %
- W&S & Electric quick ratios, cash flows, unrestricted cash to expense

Questions?

Tonya Thompson
(828)327-2727
tthompson@msa.cpa
www.msa.cpa

ROCKY MOUNT, NC
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MEMORANDUM

ROCKY MOUNT, NC
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To: Peter Varney, Interim City Manager

Cc: Latasha Hall, Director of Business & Collections Services

From: Chris Beschler, Director of Energy Resources

Date: 11/17/2022

Re: Purchased Gas Adjustment Update

Our City rate policies for residential, commercial, and industrial natural gas services include provisions enabling the Director of Energy Resources to apply a Purchased Gas Adjustment (PGA) to the usage rates for gas (billed in Therms). The PGA serves to reflect the difference between estimated and actual costs for natural gas and includes a factor accounting for the impact of abnormal conditions.

Currently, the City is applying a PGA of $0.40 per Therm sold. This was implemented in August 2022 to account for significant increases in the cost of natural gas sold on the market for summer and fall use. While strategies implemented by the City to hedge the cost of natural gas supply required by our customers during the winter months are proving successful, the increased costs experienced for gas purchased and sold in the pre-winter months and the increased costs anticipated for purchasing transportation capacity require continuing the PGA at its current level of $0.40 per Therm for the remainder of the current fiscal year. This will enable the City to achieve its budgeted operating margin (sales net purchases) of $10.575 million. Monthly winter month natural gas costs for residential customers utilizing the average consumption of 150 Therms will be $224.42, which is $32.36 less (-12.6%) than the current costs for a customer of the City of Wilson.

Overview of Natural Gas Costs and City Pricing

The Total Weighted Average Cost of Gas (WACOG) is comprised of the price paid by the City for the commodity, capacity (transportation), and fixed costs applied by Piedmont Natural Gas (source pipeline operator). Our current rate structure, instituted in September 2015, sets published usage rates based on an average cost of commodity at $0.431 per Therm.

Annual average prices for the purchase of natural gas by the City remained below the $0.431 per Therm ($4.31 per DT) through the end of Fiscal Year 2021 due to historic declines in the market price of natural gas. During Fiscal Year 2022, however, the average annual price climbed to $0.4757 per Therm, which is approximately 10% above the amount upon which our published rates were created. Continued increases in purchase prices for the first several months of the current fiscal year (FY 2023) lead to a projected average at year end of $0.8457 per Therm ($8.457 per DT), which is $0.4147 per Therm greater than the level used to set rates in 2015. This difference is the primary reason for continuation of the $0.40 per Therm PGA through the end of FY 2023.

Winter Strategies

During the winter months, the City deploys several strategies to reduce our exposure to unanticipated and considerable increases in purchase costs for commodity and capacity due to potential for high demand during extreme cold weather periods. These include the following:

- Advance hedge purchasing of natural gas capacity, where supplies are purchased 2 to 4 years in advance at levels consistent with average monthly usage in winter months to take advantage of lower futures prices and avoid the need for "spot" market purchases during months of heavy use;

- Purchase of liquified natural gas (LNG) for use in offsetting significant peaks in demand; and

- Advance purchase of additional capacity to minimize potential for unexpected costs due to demand increases.

Our strategy enabled securing of appropriate supplies for the coming winter as early as February 2020, and we have already secured supplies consistent with historical average for the winter months of Fiscal Years 2024 and 2025.

Forecast

Our analysis and discussions with our market representatives conclude natural gas commodity prices will remain elevated compared to the levels used to establish current rates (not including PGA) for the next several years. The market rate for natural gas, as of today, is approximately $0.65 per Therm ($6.50 per DT), and we expect average prices will remain between $0.50 and $0.70 per Therm ($5 to $7 per DT) through 2027, with peak prices reaching $12 to $14 per DT.

Capacity prices will continue to have the potential to climb due to increased demand year-around for electricity generation and other industrial needs. Capacity supply will also remain constrained by the lack of new or expanded natural gas pipelines.

A cost of service study is already underway for natural gas operations, and we expect to present its results in early-Spring 2023. It is likely the study will recommend revisions to our rate scheduled for natural gas for implementation in Fiscal Year 2024. While published rates may increase, the actual costs paid by customers may not increase to the same degree because these revised rates should negate future use of the PGA.

Residential Cost Comparison

City of Wilson adopted new rates for natural gas service effective July 2022 and have a current PGA ($0.5912 per Therm) significantly higher than our $0.40 per Therm level. Piedmont Natural Gas implemented 2 rate increases since 2015 as well.

Based on available rate information for these neighboring providers, our analysis found City of Rocky Mount residential customers, with the application of the $0.40 per Therm PGA, will see monthly natural gas utility bills during the winter months that are noticeably less than residential customers of Wilson and Piedmont for like usage. At an average residential usage of 150 Therms per month, City of Rocky Mount customer will pay $224.42. This is $32.36 less (-12.6%) than City of Wilson and $57.54 less (-20.4%) than Piedmont.

Attached is a presentation for the scheduled November 21st City Council meeting with additional background on the PGA and information on current gas costs. Please let me know if you have any questions.

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Purchased Gas Adjustment Update

11/21/2022, Department of Energy Resources

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Gas Rate Overview

- Effective since September 2015
- Applied recommendations of 2014 Cost of Service Study
  - Based on Average Commodity Cost of Gas at $4.31 per DT ($0.431 per Therm)

Firm Service Usage Rates

Rate	Tier 1 Usage	Tier 1 Rate (per Therm)	Tier 2 Usage	Tier 2 Rate (per Therm)
Residential	First 10 Therms	$1.11646	Over 10 Therms	$0.85183
Commercial	First 100 Therms	$1.28089	Over 100 Therms	$0.98365
Industrial	All Therms	$0.94737		

PGA Overview

- Applicable to all Natural Gas Rate Schedules
  - Monthly adjustment to per therm charge
  - Determined by Director of Energy Resources
  - Reflects difference between estimated & actual costs of natural gas
  - Factors in abnormal conditions
- Actively-used monthly since January 2022
- Current PGA: $0.40 per Therm
  - Initiated August 2022
- Determination: Continue $0.40 per Therm PGA thru June 2023

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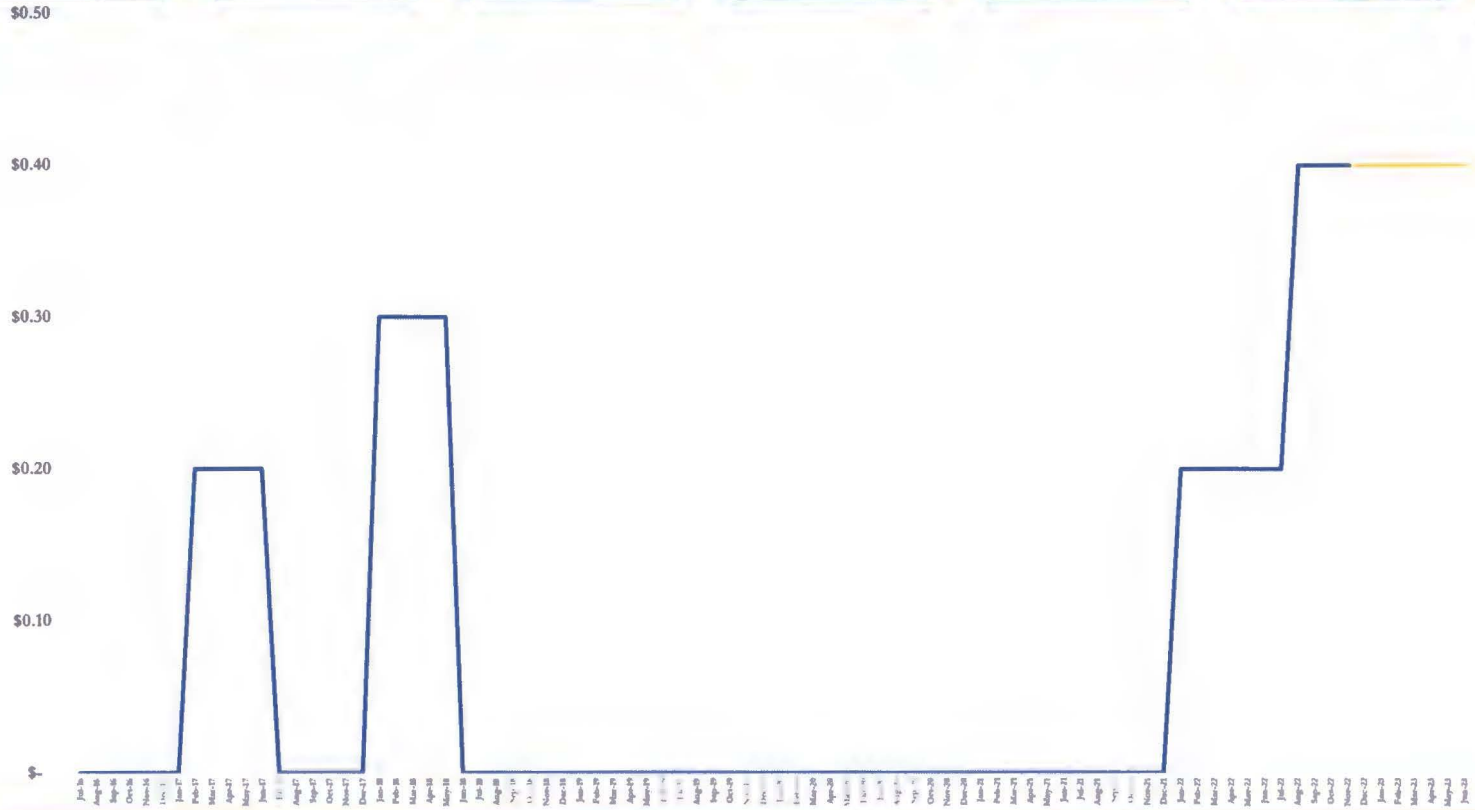
PGA History (Since FY 2017)



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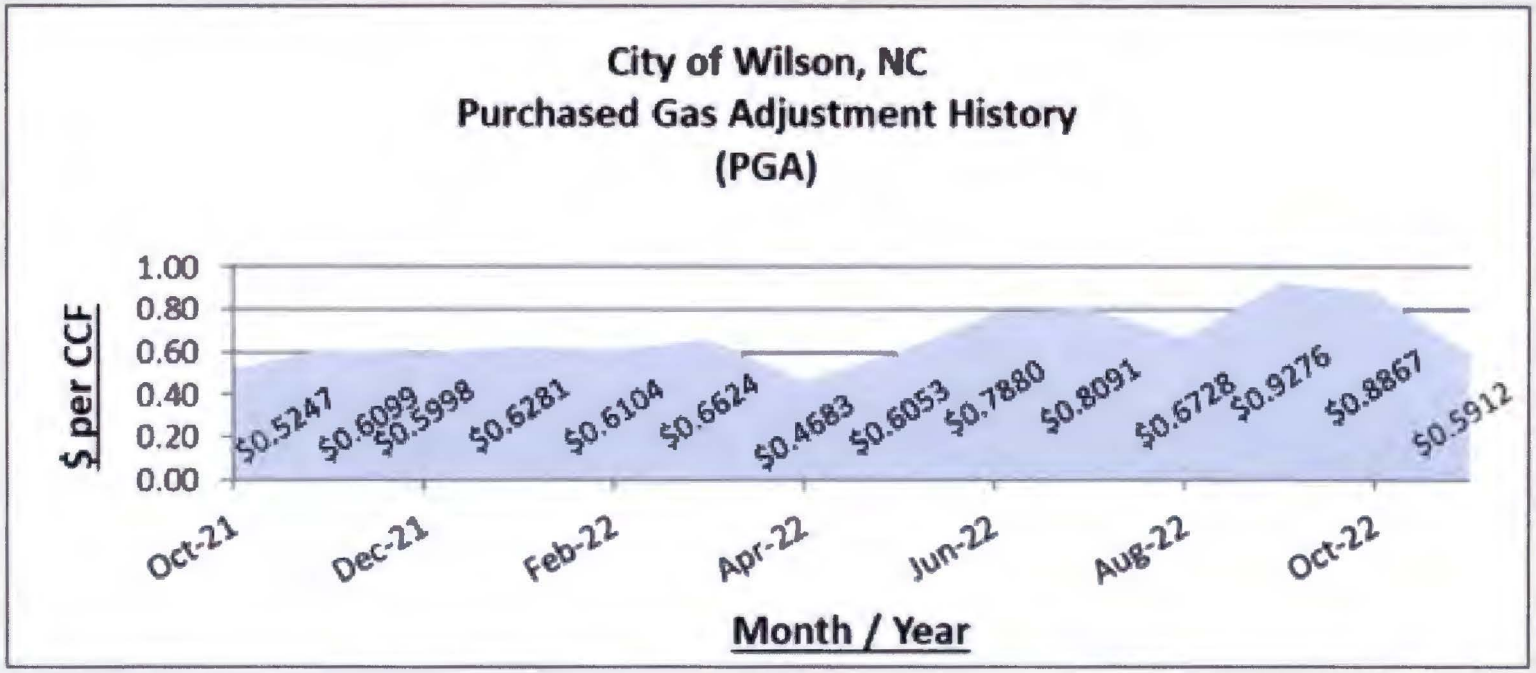
Wilson's Recent PGA History



Cost of Natural Gas

Total WACOG = Commodity Cost + Capacity Cost + Piedmont Fixed Costs

- Influenced by active trading markets
- Options available to purchase futures to hedge costs

Strategy for Winter Months

- Hedge purchases of 60% to 75% of historical average volume demand
  - Purchased 2 to 4 years prior to need/delivery
- Purchase Liquified Natural Gas to offset significant demand peaks
- Purchase additional capacity (access to pipelines)
- Maintain secured supplies & capacity to avoid rapid increases in costs

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Purchased Winter Volumes (DTs)

Year	December	January	February	March	Cost per DT	Cost per Therm
Average Usage	**279,877**	**351,775**	**278,829**	**208,437**	**$4.310**	**$0.431**
FY 2017	60,000	80,000	60,000	50,000	$3.950	$0.395
FY 2018	120,000	160,000	120,000	100,000	$3.750	$0.375
FY 2019	120,000	160,000	120,000	100,000	$3.765	$0.377
FY 2020	120,000	160,000	120,000	100,000	$3.205	$0.321
FY 2021	180,000	240,000	180,000	150,000	$3.008	$0.301
FY 2022	180,000	240,000	180,000	150,000	$3.103	$0.310
FY 2023 (Current)	**180,000**	**240,000**	**180,000**	**150,000**	**$2.942**	**$0.294**
FY 2024	180,000	240,000	180,000	150,000	$2.932	$0.293
FY 2025	180,000	240,000	180,000	150,000	$2.998	$0.300

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Commodity WACOG (per DT)

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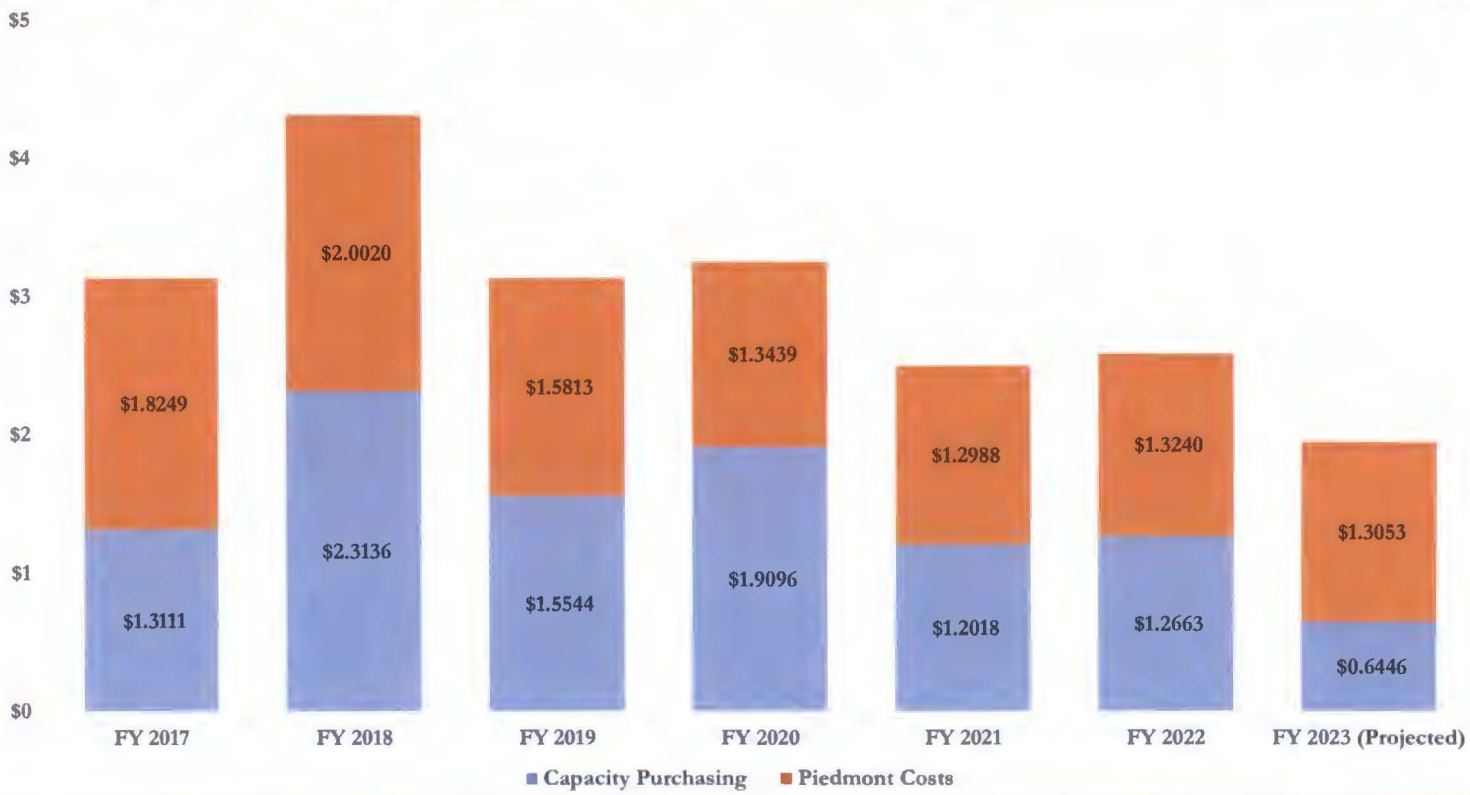
Capacity WACOG (per DT)



Forecast

Commodity Prices are increasing and will remain elevated

- Current Market Price: $6.50/DT
- Predicted Average Range: $5/DT to $7/DT thru 2027
- Predicted Peak Prices: $12/DT to $14/DT

Capacity Prices have potential to climb and remain volatile

- Increased demand due to electricity generation
- Lack of new and expanded pipelines

Plan of Action

Retain $0.40/Therm PGA thru June 2023

- Offsets variance in projected commodity price ($0.846/Therm) compared to base rate commodity price ($0.415/Therm)
- Achieves budgeted operating margin

Cost of Service Study in Progress

- Anticipate presenting findings and recommendations in early-Spring
- Will lead to revised base rate schedules for FY 2024
  - Does not mean customer cost increases due to application of PGA
- Piedmont has raised rates twice since 2015

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Usage Rate Comparison (per Therm)

	Residential			Commercial			Industrial		
	Base	**PGA**	**Total**	**Base**	**PGA**	**Total**	**Base**	**PGA**	**Total**
Rocky Mount, Tier 1 (Base Rates established September 2015)									
	$1.11646	$0.40	**$1.5646**	$1.28089	$0.40	**$1.68089**	$0.94737	$0.40	**$1.134737**
Rocky Mount, Tier 2 (Base Rates established September 2015)									
	$0.85183	$0.40	**$1.25183**	$0.98365	$0.40	**$1.38365**			
Wilson (Base Rates raised 15.6% July 2022)									
	$0.994	$0.5912	**$1.585**	$0.7608	$0.5912	**$1.352**	$0.5188	$0.5912	**$1.110**
Piedmont (Rates raised in 2021)									
	$1.81304	N/A	**$1.81304**	$1.46099	N/A	**$1.46099**	$0.91811	N/A	**$0.91811**

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Residential Monthly Simulation

For December-March Usage

	Rocky Mount	Wilson	Piedmont
Base Monthly Charge	$34.00	$19.00	$10.00
Total Bill for Following Usage (Including Current PGAs)			
100 Therms	$161.83	$177.52	$191.30
125 Therms	$193.13	$217.15	$236.63
150 Therms (Average)	$224.42	$256.78	$281.96
175 Therms	$255.72	$296.41	$327.28
200 Therms	$287.01	$336.04	$372.61

MEMORANDUM

ROCKY MOUNT
CITY MANAGER'S OFFICE
THE CENTER OF IT ALL

To: Mayor and City Council

From: Peter Varney, Interim City Manager

Date: 10/31/2022

Re: Housing Code Update

Chapter 11 of the City Code of Ordinances, "the Housing Code" was last updated in 2009. Since then, building codes and the General Statues have changed, resulting in the need to update the ordinance.

The redrafted ordinance (see attached) shows the proposed changes with strike throughs and underlining. The main changes are summarized as follows:

Sec 11-5 Definitions: The definition of "abandoned structure", "deteriorated," and "dilapidated" are based on a revised cost to repair set at 50% of tax value, not 40% of tax value. Recently enacted legislation (160 D-1203.6. a/b) establishes the threshold at 50%

Sec. 11-5 Definitions: The definition of "Owner" is simplified to read: "Owner means the holder of the title in fee simple and every mortgage of record."

Sec 11-9 Unsafe Conditions: Subsection c requires inspectors to perform interior inspections as long as it is considered safe to enter a deteriorated or dilapidated structure. Both an exterior and interior inspection must be completed in order to constitute a complete hosing code case.

Sec 11-10 Minimum Standards: The current ordinance requires smoke detectors and for houses built after 1975, they must be hard wired to a 110-volt circuit. The proposed revision allows both hard wired and battery-operated detectors and prescribes where in the house they are to be located. The proposed revision adds a requirement for the installation of carbon monoxide detectors.

Sec 11-13 Duties of Tenants: Staff proposed requirements for tenants are deleted.

Sec 11-17 Enforcement: Subsection c "Lis Pendens" is added as a separate section and the language is expanded to describe the notice of lis pendens process more completely.

Sect 11-17 Enforcement: Subsection e (1) "deteriorated" gives the inspector power to accelerate enforcement action on "deteriorated" properties under certain conditions such as imminent danger to occupants.

Sec 11-17 Enforcement: Subsection f is added to provide for notices to affordable housing organizations of impending demolition orders. This is a new requirement by state law.

Sec 11-17 Enforcement: Subsection h is added to address dwellings that have been vacated and closed for a period of one year without action by the owner. With approval by the City Council, the structure can proceed to demolition. This section replaces the "one step" section in the current ordinance.

Sec 11-17 Enforcement: Subsection i is added to provide authority to address "Unsafe Dwellings in a community development target area. The implicit ability to establish target areas provides additional enforcement ability.

Sec 11-17 Enforcement: Subsection j entitled "liens" removes the requirement to remove the owners personal property to the City warehouse. The revised section allows the City to dispose of personal property and other appurtenances and apply the proceeds to the cost of demolition.

In addition, this section allows the lien to be applied to any other real property of the owner that is located within the city limits or within one mile thereof except for the owner's primary residence.

Sec 11-17 Enforcement: The subsection providing for criminal enforcement is eliminated.

Sec 11-17 Enforcement: Subsection M entitled "Civil Enforcement" remains unchanged. The inspectors may impose civil penalties of $100 on day one and $25/day thereafter. Penalties are collected through small claims court.

Chapter 11 HOUSING CODE[1]

Sec. 11-1. Housing code established, title.

There are hereby established rules and regulations for the repair or elimination of unfit and/or unsafe housing conditions in the City of Rocky Mount, North Carolina, which shall be known as "The Housing Code of the City of Rocky Mount," and will be referred to ~~hereafter~~hereinafter as "this "code"~~.~~."

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-2. Exercise of police powers; authority.

The city council hereby finds and declares that there ~~exist~~ exists in the city dwellings and certain abandoned structures which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light, or sanitary facilities, or due to 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 city, and that a public necessity exists to exercise the police powers of the city pursuant to ~~Article 19~~ ~~12~~ ~~of~~ Chapter ~~160A~~ 160D, Article 12, of the North Carolina General Statutes ~~of North Carolina~~and other applicable law, as now or hereafter amended, to vacate, repair, close, or demolish such dwellings in accordance with the procedure herein provided.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-3. Purpose.

The purpose of this code is to remedy and prevent the decay and deterioration of places of human habitation or intended for human habitation, and/or certain abandoned structures by providing minimum requirements for the

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[1]Editor's note(s)—Ord. No. 0-98-20, § 1, adopted March 9, 1998, amended Ch. 11, in its entirety, to read as herein set out. Subsequently, Ord. No. 0-01-57, § 1, adopted July 23, 2001, amended said chapter to read as herein set out. See the Code Comparative Table.

Cross reference(s)—Housing authority, § 2-76 et seq.; alarm systems, Ch. 3; animals, Ch. 4; buildings and building regulations, Ch. 5; fire prevention and protection, Ch. 8; storage of flammable liquids in outside aboveground tanks prohibited, § 8-28; fire exit requirements, § 8-34; gas, Ch. 9; gas standards adopted, § 9-3; vent and vent connections for gas heaters, § 9-27; requirements for vents for gas appliances, § 9-28; gas black flue pipes prohibited, § 9-29; public health nuisances prohibited, § 10-71 et seq.; loud or disturbing noises including bicycle and vehicle noises prohibited, § 10-152; fair housing, § 12-26 et seq.; abandoned vehicles, § 10-176 et seq.; solid waste, Ch. 18; streets, sidewalks and certain other public places, Ch. 19; traffic and vehicles, Ch. 20; utilities, Ch. 21; subdivisions, App. A, zoning, App. B.

~~State law reference(s)—Minimum housing standards, G.S. § 160A-441 et seq.~~ State law reference(s)—Minimum Housing Codes, N.C.G.S. § 160D-1201 et seq.; Building Code Enforcement, N.C.G.S. § 160D-1101 et seq.; Enforcement of Ordinances, N.C.G.S. § 160A-175; Procedure for Adopting, Amending, or Repealing Development Regulations, N.C.G.S. § 160D-601; Lis Pendens, N.C.G.S. § 1-116 et seq.;

protection of the life, health, welfare, safety, and property of the general public and the owners and occupants of places of human habitation.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-4. Scope.

The provisions of ~~the~~this code are applicable to all existing dwellings and all dwellings hereafter constructed within the city and its extraterritorial jurisdiction which are used or intended for use for human habitation and/or abandoned structures. Manufactured or modular dwellings or manufactured or modular dwellings being moved and temporarily stored prior to relocation, when used or intended for use for human habitation within the city, shall be subject to the applicable provisions of this code.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-5. Definitions.

(a) ~~[~~For the purposes of this chapter, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise~~]~~.

(1) *Abandoned structure* means any structure, other than a dwelling, dwelling unit, habitable room, multiple dwelling room unit or boardinghouse, which is 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, and which cannot be repaired, altered or improved so as to no longer constitute such health or safety hazard at a cost of less than ~~forty (40)~~ fifty (50) percent of its value, as determined by the findings of the code enforcement official.

(2) *Apartment house* means any dwelling which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three (3) or more families living independently of each other in dwelling units.

(3) *Approved* means performed in a manner and/or with materials consistent with the North Carolina State Building Code in effect at the time of construction or substantial renovation unless otherwise provided herein.

(4) *Area* as applied to the dimensions of a room shall mean the total square footage or floor area between finished walls or when applied to the dimensions of a dwelling shall mean the maximum horizontal projected area of the dwelling at grade.

(5) *Basement* means a story having a clear height of at least seven (7) feet from finished floor to finished ceiling, the floor level of which is below finished grade but not less than four (4) feet below the average finished grade, having floor and walls of approved construction, and/or having direct access to light and air from windows located above the level of the adjoining ground.

(6) *Boardinghouse* (or *rooming house*) means any dwelling unit or that part of any dwelling unit containing one (1) or more rooms in which space is let by the resident owner or operator to three (3) or more tenants.

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

(8) *Ceiling height* means the clear vertical distance from the finished floor to the finished ceiling. The minimum allowable ceiling height shall be seven (7) feet six (6) inches.

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

(10) *Certificate of exemption (temporary C/O)* means a document issued pursuant to section 11-16(c)(2) of this ~~Code~~code by the ~~housing~~ community code supervisor ~~administrator~~ certifying that no housing certificate is required prior to ~~reoccupancy~~re-occupancy of an owner-occupied dwelling.

(11) *City* means the City of Rocky Mount, North Carolina.

(12) *City council* means the City Council of the City of Rocky Mount, North Carolina.

~~(12)~~(13) *Community Code Division* refers to the office and staff of the Community Code Division within the Development Services Department.

~~(13)~~(14) *Community ~~Code enforcement~~code official* means any employee of the city whose assigned or delegated duties include the enforcement of one (1) or more provisions of this code.

~~(14)~~(15) *Demolish* means the tearing down and disposal of the entire dwelling in a lawful manner, leaving the property free and clear of any debris and without holes or pockets.

~~(15)~~(16) *Deteriorated* means a dwelling that is unfit for human habitation or unsafe and can be repaired, altered, or improved to comply with all of the standards established by this code at a cost not in excess of ~~forty (40)~~ fifty (50) percent of its value, as determined by the finding of the code enforcement official.

~~(16)~~(17) *Dilapidated* means a dwelling that is unfit for human habitation or unsafe and cannot be repaired, altered, or improved to comply with all of the standards established by this code at a cost in excess of ~~forty (40)~~ fifty (50) percent of its value, as determined by finding of the code enforcement official.

~~(17)~~(18) *Dwelling* means any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, and including any outhouse and appurtenances belonging thereto or usually enjoyed therewith, apartment houses, boarding or rooming houses, hotels, motels, and other transient places of habitation and dwelling unit.

~~(18)~~(19) *Dwelling unit* means any room or group of rooms located within a dwelling and forming a habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

~~(19)~~(20) *Exit (egress)* means a clear and unobstructed way of departure from the interior of a dwelling to the exterior at street or grade level.

~~(20)~~(21) *Extermination* means the control and elimination of insects, rodents, and other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and lawful pest elimination methods approved by the code enforcement official.

~~(21)~~(22) *Family* means one (1) or more persons living together and having common housekeeping facilities.

~~(22)~~(23) *Garbage* means the waste produced by the handling, processing, preparation, cooking and consumption of animal or vegetable products used for human consumption. This definition shall include any other matter that is also subject to decomposition, decay, putrefaction or the

generation of noxious or offensive gases or odors or which before, during or after decay may serve as feeding or breeding material for animals or flies or other insects.

~~(23)~~(24) *Habitable space* or *habitable room* means any room or enclosed floor space in a dwelling used or intended for use for living, sleeping, cooking, or eating, including kitchens, but excluding bathrooms, toilets, halls, corridors, pantries, storage space, closets, laundries, and other spaces not used frequently or during extended periods.

~~(24)~~(25) *Hazardous materials* means any chemicals or substances which are physical or health hazards as defined and classified under OSHA 29 CFR 1910.10.

~~(25)~~(26) *Housing certificate (certificate of compliance)* means a ~~permit~~ certificate issued by the ~~housing code supervisor~~ community code ~~administrator~~supervisor or his designated agents, certifying that the named dwelling complies with the minimum requirements of this code.

~~(26)~~(27) *Housing code division* means the office and staff of the housing code division.

~~(27)~~(28) *Infestation* means the presence, within or around a dwelling, of any insects, rodents, or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

~~(28)~~(29) *Inspect* means the act of examining areas and parts of a dwelling to determine its compliance with the standards set out in this code.

~~(29)~~(30) *Inspection services* means the office and staff of the ~~inspection services code administrator.~~Inspection Services Division within the Development Services Department.

~~(30)~~(31) *Manufactured building* means a structure consisting of one (1) or more transportable sections built and labeled within a manufacturing plant facility in accordance with the appropriate state or federal construction code which governs the structure's intended usage when erected on a building site.

~~(31)~~(32) *Manufactured home (mobile home)* means a manufactured building designed to be used as a single-family dwelling unit which has been constructed and labeled indicating compliance with the HUD administered National Manufactured Housing Construction and Safety Standards Act of 1974.

~~(32)~~(33) *Modular building* means a manufactured building constructed in accordance with the North Carolina State Building Code.

~~(33)~~(34) *Modular Home* means a manufactured building designed to be used as a one- or two-family dwelling unit which has been constructed and labeled indicating compliance with the North Carolina Uniform Residential Code, Volume VII.

~~(34)~~(35) *Modular building (commercial)* means a manufactured building designed to be used as a multi-family dwelling unit (three (3) or more families) or as a commercial structure which has been constructed and labeled indicating compliance with the North Carolina State Building Code.

~~(35)~~(36) *North Carolina State Building Code* or *North Carolina Building Code* means any or all volumes of the North Carolina State Building Code as promulgated by the North Carolina Building Code Council.

~~(36)~~(37) *Occupant* means any person living, sleeping, cooking, or eating in or having actual possession of a dwelling.

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

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

~~(37)~~(38) ~~(2) Has charge or control of any dwelling, dwelling unit or abandoned structure, as owner or agent of~~ the ~~owner as executor, administrator, trustee or guardian~~holder of the ~~estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this code,~~title in fee simple and ~~of rules and regulations adopted pursuant hereto, to the same extent as if he were the owner.~~ every mortgagee of record.

~~(38)~~(39) *Parties in interest* means all individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.

~~(39)~~(40) *Pier* means a post, pole or column of masonry, concrete, steel or pressure-treated wood, or any other material that complies with the N.C. State Building Code for use as a pier, extending from a concrete or masonry footing to and supporting the building or portion thereof.

~~(40)~~(41) *Plumbing* means the water supply system, sanitary drainage system, vent system, fixtures, and traps and shall include their respective connections, devices, appliances, and appurtenances within the property lines of the premises.

~~(41)~~(42) *Public authority* means any official who is in charge of any department or branch of the government of the city or of the state relating to health, fire, building regulations or other activities concerning dwellings or abandoned structures in the city, including but not limited to the housing authority of the city.

~~(42)~~(43) *Public space* or *common space* means that space within any dwelling which is open to use by the general public or to occupants of more than one (1) dwelling.

~~(43)~~(44) *Rodent proof* means construction of a new structure or repair of an existing structure using materials and methods that prevents entry of rodents. Openings one-half (½) inch or greater may allow rats to enter and openings one-quarter (¼) inch or greater may allow mice to enter.

~~(44)~~(45) *Rubbish* means combustible and noncombustible waste materials, except garbage; including, but not limited to, ashes, wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, excelsior, rubber, leather, tree branches, yard trimmings, leaves, tin cans, metals, mineral matter, glass, crockery, dust and dirt.

(46) *Supervisor* means the public officer in charge of the community code division.

~~(45)~~(47) *Supplied* means paid for, furnished or provided by, or under the control of, the owner or operator.

~~(46)~~(48) *Story* means that part of the dwelling comprised between a floor and the floor or roof next above having the required amount of ceiling height.

~~*Supervisor* means the supervisor or person in charge of the housing code division.~~

~~(47)~~(49) *Temporary housing* means any tent, mobile home, manufactured type home, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, or another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.

~~(48)~~(50) *Tenant* means any person who alone or jointly or severally with others occupies a dwelling under an oral or written lease or holds a legal tenancy in a dwelling.

~~(49)~~(51) *Unfit for human habitation* means conditions existing in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness or one (1) or more of the requirements established by this code.

~~(50)~~(52) *Unsafe* means especially dangerous to life because of a dwelling's liability to fire or because of bad conditions of walls, overloaded floors, defective construction, decay, dangerous wiring or

heating system, inadequate means of egress, or other causes or conditions enumerated in section 11-9(a) of this ~~Code~~code.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-6. Reserved.

Sec. 11-7. Administration.

(a) ~~(a)~~ *Enforcement agency.*

(1) ~~(1)~~ There is hereby created and established a division within the government of the city to be known as the ~~housing~~ community code division, which shall be composed of ~~an~~a supervisor ~~administrator,~~, community code ~~enforcement~~ officials, and such other employees as shall be authorized by the city manager. The housing code division shall be a division of the city department designated by the city manager.

(2) ~~(2)~~ The supervisor of the ~~housing~~community code division is hereby designated the public official to exercise, by and through his duly appointed agents, the powers described by this code.

(b) ~~(b)~~ *Consulting agency.*

(1) ~~(1)~~ The community code ~~enforcement~~ official shall have authority to request advice and assistance from any agency he deems appropriate in performing his duties.

(2) ~~(2)~~ The departments of the city and other public agencies may report in writing to the community code ~~enforcement~~ official any dwelling or abandoned structure they may encounter which is, may be, or is suspected of being unfit for human habitation or unsafe within the terms of this code.

(c) ~~(c)~~ *Administrative liability.*

(1) ~~(1)~~ Except as may otherwise be provided by statute or local law or ordinance, no officer, agent, or employee of the city charged with the enforcement of this code shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this code. No person who institutes or assists in the prosecution of a criminal proceeding under this code shall be liable for damages hereunder unless he acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-8. Reserved.

Sec. 11-9. Unsafe conditions.

(a) ~~(a)~~ The community code ~~enforcement~~ official shall determine that a dwelling or abandoned structure is unsafe and represents a threat to life and property, if any of the following conditions exist:

(1) ~~(1)~~ No operating heating;

(2) ~~(2)~~ No potable water supply;

(3) ~~(3)~~ No hot water supply;

(4) ~~(4)~~ No electricity;

(5) ~~(5)~~ Failing or failed primary structural members that threaten the stability of the dwelling and or visible structural defects that appear to render the structural members ineffective;

(6) ~~(6)~~ Improperly operating or no sanitary facilities;

(7) ~~(7)~~ Overloaded, non-isolatable electrical circuits or unsafe or exposed electrical wiring;

(8) ~~(8)~~ Presence of raw sewage or open sewer, inside or outside the dwelling, whether from broken, plugged or inoperative fixtures or pipes inside the dwelling, or migrating into the dwelling from outside;

(9) ~~(9)~~ Presence of ~~uncontained~~improperly contained flammable or combustible liquids or gases, poisonous solids, liquids or gases, poisonous solids, liquids or gases or life or health threatening depletion of oxygen or other hazardous materials;

(10) ~~(10)~~ Missing roof, or part of roof missing;

(11) ~~(11)~~ Chimney flues clogged;

(12) ~~(12)~~ The dwelling is a physical threat due to immediate possibility of collapse;

(13) ~~(13)~~ The primary means of exit or escape in the event of fire or other emergency is blocked or structurally unsafe;

(14) ~~(14)~~ Occupancy of habitable space that does not meet below-grade occupancy standards;

(15) ~~(15)~~ Internal accumulation of garbage;

(16) ~~(16)~~ Interior wall sheathing or sheeting that is not present, or has been removed, to a point where there is little or no protection from spread of fire from story to story, or from other habitable spaces to bedrooms;

(17) ~~(17)~~ No operable smoke detection system;

(18) ~~(18)~~ Multiple violations of the standards set forth in section 11-10.

(b) ~~(b)~~ The community code ~~enforcement~~ official shall give priority enforcement to any dwelling that falls within the provisions of section 11-9. Upon discovering a violation of subsection 11-~~8(a) or 11-~~9(a), the ~~administrator~~supervisor shall, based upon the standards set in section 11-10, have the power to order the correction of any such violations within seventy-two (72) hours from the date of notice thereof. In the event the responsible party fails to make such corrections, the ~~administrator~~supervisor shall set a hearing pursuant to the procedures of subsection 11-17(~~a~~d) and thereafter may again order the correction of any such violations within seventy-two (72) hours from the date of service of the order upon the responsible party. In the event the responsible party still fails to make such corrections, the inspector may order the dwelling unit to be vacated and closed within a reasonable time and may assess civil penalties as set forth in subsection 11-17(~~b~~m). The ~~administrator~~supervisor may pursue any other civil action as he deems reasonably necessary in order to effectuate the purposes of this ~~chapter~~code.

(c) A residential dwelling unit may be construed by the ~~administrator~~supervisor to be unfit for human habitation without an interior inspection having been completed only when there is significant visible evidence to believe the structural integrity or an immediate threat to adjacent properties exists as a result of dilapidation, fire or other such catastrophic events. In the absence of such condition, an interior and exterior inspection must be completed to constitute a complete housing code case.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-10. Minimum standards.

Without excluding other ways and means of determining that a dwelling is unfit for human habitation, the community code ~~enforcement~~ official shall apply the minimum standards set forth in section 11-10 of this Code in determining whether a dwelling is unfit.

(a) ~~(a)~~ *Facilities.*

(1) ~~(1)~~ *Sanitary.* Every dwelling shall be furnished with a potable water supply system. *"Potable water supply"* shall mean direct connection to a well, to a public water utility or equivalent water service delivery system, and does not include water delivered through a hose or via containers. Every dwelling shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition free from defects, leaks, and obstruction. "Properly connected" means connected with approved plumbing materials (no radiator hose, duct tape, etc.). "Properly installed" means continuous piping that met the North Carolina State Building Code in effect at the time of installation. Any new, additional or repair plumbing must meet the current requirements of the North Carolina State Building Code. Provided, however, that the kitchen sink standards enumerated herein shall not apply to hotels, motels and other transient places unless kitchen sinks are otherwise required.

(2) ~~(2)~~ *Location of sanitary facilities.* All required plumbing fixtures shall be located within the dwelling and be accessible to the occupants of same. The water closet, tub or shower and lavatory shall be located in a room (or adjoining rooms) affording privacy to the user. Required bathrooms shall be accessible from habitable rooms, hallways, corridors or other protected or enclosed areas.

(3) ~~(3)~~ *Hot and cold water supply.* Every dwelling shall have connected to the kitchen sink, lavatory, and tub or shower an adequate supply of both cold and hot water. All water shall be supplied through an approved distribution system connected to a potable water supply.

(4) ~~(4)~~ *Water heating.*

a. ~~a.~~ Every dwelling shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature so as to permit hot water to be drawn consecutively (that is, at one (1) tap after the other, and not simultaneously) at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred sixteen (116) degrees Fahrenheit. Such water heating facilities shall be capable of meeting the requirements of this subsection when the dwelling's heating facilities required under the provisions of ~~the~~this code are not in operation. Apartment houses may use a centralized water heating facility capable of delivering an amount of hot water in the quantity and at the temperature described above.

b. ~~b.~~ Water heaters shall be equipped with approved relief valves, which are piped to a point not more than six (6) inches above the floor. The pipe material for the relief valve shall be threaded pipe approved for interior water service lines.

c. ~~c.~~ Provided, however, that the provision in subsection (a)(4) ~~of this section~~ for hot water supplies for a kitchen sink shall not apply to hotels, motels, and other transient dwellings where kitchen sinks are not required.

(5) ~~(5)~~ *Heating.*

a. ~~a.~~ Every dwelling shall have heating facilities which are properly installed, are maintained in safe and good working conditions, and are capable of safely and adequately heating one (1) habitable room, excluding the kitchen in every dwelling regulated herein to a temperature of at least sixty-eight (68) degrees Fahrenheit at a distance three (3) feet above floor level, during ordinary winter conditions. Each heating system shall have at least one (1) readily adjustable control for regulation of living space temperature in each dwelling unit. Radiator control knobs in good working order shall be regarded as a readily adjustable control. If heat is not provided in every habitable room, the dwelling shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms and bathrooms to a temperature of sixty-eight (68) degrees Fahrenheit at a distance three (3) feet above the floor level during ordinary winter conditions.

b. ~~b.~~ Where a central heating system is not provided for a dwelling, the dwelling shall be provided with properly installed baseboard electric heat, properly installed and properly vented wood or fossil fuel heater(s), or unvented natural gas heater(s) having oxygen depletion sensors listed for residential use by UL, ETL, or other recognized testing laboratory and installed in strict accordance with the manufacturer's instructions.

c. ~~c.~~ The following heating devices do not meet the requirements of subsections (a)(5)a. and (a)(5)b. of this section:

1. Portable electric heating units; and
2. Unvented fuel-burning heaters.

d. ~~d.~~ The use of unvented fuel-burning heaters is prohibited in any bedroom.

(6) ~~(6)~~ *Chimneys.*

a. ~~a.~~ Chimneys must be safe for use as specified and intended. "Specified" means use in connection with specific heating appliance or systems, or limitations of such use. "Intended" means use in connection with combustion of fuel, for which the following minimum chimney standards apply:

1. Flue liner intact;
2. Chimney mortar and bricks secure;
3. Flue unobstructed;
4. Fireplace bricks intact;
5. Stove piping placed and secured with clearances as follows:

(i) Minimum twelve-inch brick clearance separation from combustibles; or

(ii) Minimum nine-inch air separation for insulated listed stove piping; or

(iii) Minimum one-inch air clearance surrounded by six-inch glass fiber insulation and ventilated thimble assembly; or

(iv) Minimum two-inch air separation for insulated listed stove piping with one-inch air space between inner and outer chimney components; and as otherwise described in National Fire Protection Association Standard 211 (NFIPA), "Chimneys, Fireplaces, Vents and Solid Fuel-Burning Appliances".

6. Heating appliance clearances maintained at thirty-six (36) inches from combustible materials and/or surfaces, except that clearances may be reduced as provided in NFIPA Standard 211, "Chimneys Fireplaces, Vents and Solid Fuel-Burning Appliances".

b. ~~b.~~ Chimneys that do not meet these standards shall either be repaired or sealed.

(7) ~~(7)~~ *Cooking equipment.* All cooking equipment and facilities shall be installed in an approved manner. Portable cooking equipment employing flame is prohibited as a substitute for approved cooking equipment. Portable cooking equipment is prohibited outside the kitchen area of a boarding or rooming house.

~~(8) *Smoke detector systems.* Every dwelling or dwelling unit shall be provided with an approved U.L. listed smoke detector on each level of the dwelling and in interior enclosed stairwells, hallways, and other common areas of multiple-unit dwellings, installed in accordance with N.F.P.A. 72 and the manufacturer's recommendations and listings.~~

~~Dwellings constructed after July 1, 1975, and prior to January 1, 1999, shall be equipped with a 110-volt hard-wired smoke detector installed in accordance with the North Carolina State Building Code.~~

~~Dwellings or dwelling units constructed after January 1, 1999, shall be equipped with listed 110-volt hard-wired interconnecting smoke detector(s) with battery back-up installed inside every sleeping room and in the area outside of each sleeping room in accordance with the North Carolina State Building Code.~~

~~When battery-operated smoke detectors are allowed by this code or the North Carolina State Building Code, batteries shall be replaced at least once annually.~~

(8) *Smoke detector systems.* All dwellings and dwelling units shall be equipped with a smoke detector (battery operated or 110 volt) which has been listed by a testing agency (such as Underwriters Laboratories) and such detector shall be installed in each sleeping room and outside of each sleeping area inside the dwelling unit. All smoke detectors shall be located on or near the ceiling of the room wherein it is located and shall be installed in accordance with the manufacturer's instructions and maintained in proper working condition. When a dwelling unit is subject to a rental agreement, the landlord and/or tenant shall be responsible for placement of batteries in the smoke detector as provided in N.C.G.S. § 42-42(a)(5).

(9) *Carbon Monoxide Detectors.* Provide a minimum of one (1) operable carbon monoxide detector per rental unit per level, either battery operated or electrical, that is listed by a nationally recognized testing laboratory that is OSHA approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075, and install the carbon monoxide detectors in accordance with either the standards of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions. This subdivision applies only to dwelling units having a fossil fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage.

(10) ~~(9)~~ *Street address.* Each dwelling shall bear a street address number of a color contrasting with the surface on which the number is mounted, such number shall be of sufficient size to be visible from the nearest public street, but not less than ~~three (3)~~four (4) inches in height. If the dwelling is not visible from the nearest public street, a sign or standard bearing the address number shall be placed on the principle public street access point to the dwelling, such number to meet the standards set forth herein.

(b) ~~(b)~~ *Light and ventilation.*

(1) ~~(1)~~ *Windows.* Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area measured between stops, for every habitable room shall be eight (8) percent of the floor area of such room. Whenever walls or other portions of structures face windows of any such room and such light-obstruction structures are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) percent of the total floor area of such room.

(2) ~~(2)~~ *Ventilation.*

a. ~~a.~~ Every habitable room (except kitchens with exhaust fans in good working order) shall have at least one (1) window or skylight which can easily be opened. The total of openable window area in every habitable room shall be equal to at least forty-five (45) percent of the minimum window area size or minimum skylight-type window size, as required, or shall have other approved, equivalent ventilation.

b. ~~b.~~ Year-round mechanically ventilating conditioned air systems may be substituted for windows, as required herein, in rooms other than rooms used for sleeping purposes. Window type air conditioning units are not included in this exception.

~~(3)~~ *Bathroom.*

(3) ~~a.~~ Every bathroom shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms equipped with an operable ceiling electrical exhaust fan.

~~(4)~~ *Lighting in halls and stairways.*

(4) ~~a.~~ Every hall and stairway of every dwelling, shall be lighted, including exterior stairways and stairways in halls and public space. Every interior stairway shall have a three-way wall switch at the top and bottom of the stairs.

(c) ~~(c)~~ Electrical systems.

(1) ~~(1)~~ *Electrical service.* Adequate electric service must be provided to the dwelling. "Adequate" means a [minimum] of one hundred (100) ampere service. If the connected electrical load exceeds the capacity of a one hundred (100) ampere service, a service of sufficient capacity to safely bear the connected load shall be furnished. "Edison base" fuses shall not be permitted as components of any modified or updated electrical service, and no more than one (1) two-wire branch circuit shall be connected to any fuse, circuit breaker or other approved over current protection device. Drop cords from a neighboring source, generator or similar source are not "adequate" for the purpose of this code.

Every new or additional electrical outlet and fixture required by ~~the~~this code shall be installed, maintained and connected to a source of electric power in accordance with the provisions of the North Carolina State Building Code.

If the connected electrical load exceeds the capacity of a one hundred (100) ampere service, a service of sufficient ampere capacity to safely bear the connected electrical load shall be furnished.

If it can be demonstrated to the satisfaction of the ~~city inspection services administrator~~~~supervisor~~electrical inspector, ~~or~~ his designee, or a licensed electrician that an electrical service of a lesser size than a one hundred (100) ampere service is adequate to serve a structure, that electrical service will be approved. In this case, "adequate" means that the service conforms to the

standards of National Electrical Code, does not have more than one (1) two-wire branch circuit connected to any fuse or circuit breaker, shows no signs of damage, over fusing or tampering and calculations provided show the existing service is adequate for the loads imposed.

(2) ~~(2)~~ *Lights and outlets.*

a. ~~a.~~ Every habitable room or space shall contain at least two (2) separate and remote duplex receptacle outlets.

b. ~~b.~~ Bedrooms shall have, in addition, at least one (1) wall switch-controlled lighting outlet or ceiling light fixture or permanent fixture controlled by a pull chain.

c. ~~c.~~ In kitchens, three (3) separate, remote and accessible receptacle outlets shall be provided, and a wall or ceiling lighting outlet controlled by a wall switch or fixture pull-chain shall be provided. An outlet dedicated to powering an appliance and/or not easily accessible because it is blocked by an appliance shall not be counted as a separate outlet. In kitchens with less than six (6) linear feet of countertop, two (2) of the three (3) required outlets may be within the countertop space. All new receptacles added over counters must be ground fault protected.

d. ~~d.~~ Every hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one (1) ceiling-mounted or wall-mounted fixture outlet. For purposes of this section a laundry closet shall not be considered a laundry room.

e. ~~e.~~ In bathrooms, the lighting outlet shall be controlled by a wall switch or fixture pull chain. In addition to the lighting outlet in every bathroom and laundry room, there shall be provided at least one (1) receptacle outlet. Any new or replacement bathroom receptacle outlet shall have ground fault circuit interrupter protection.

f. ~~f.~~ All outlets, switches, wiring and light fixtures shall be safe and operable. No extension cords shall be spliced or used as fixed wiring of a dwelling. Electrical odor, flickering lights, visibly frayed wiring, broken switch plates or failure of circuit-tester check shall be evidence of an unsafe electrical system.

g. ~~g.~~ Every exterior entrance shall be lighted at grade level and controlled with a wall mounted interior switch.

(d) ~~(d)~~ *Exterior and interior.*

(1) ~~(1)~~ *Foundation.* The building foundation system shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon. Beneath the dwelling, there must be firm, reasonably dry ground free of rubbish and debris, ("reasonably dry" means no mud, standing water, running water or evidence of same). The area beneath the dwelling must also be reasonably free of debris and rubbish. Manufactured homes shall be set up and secured as required by the North Carolina State Building Code's Regulations for Manufactured/Mobile Homes.

(2) ~~(2)~~ *Exterior walls.*

a. ~~a.~~ Every exterior wall shall be reasonably weathertight, (free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain, dampness, vermin or air to the wall cavity or to the occupied spaces of the building). All siding material shall be kept in repair. "Kept in repair" includes maintenance of painted surfaces areas where the protective paint surface no longer protects wood or other organic building materials from weather damage, repair or cracks or holes exceeding one-quarter (¼) inch in width and

replacement of wood or other organic components that show visual signs of rot, are soft to the touch or otherwise show evidence of rotting.

b. ~~b.~~ Existing skirting for manufactured homes shall be maintained free from broken or missing sections, pieces or cross-members which compromise the insulation characteristics of the skirting. Skirting shall be securely attached and sized from the ground to the lower outside perimeter of the structure.

c. ~~c.~~ Replacement or new skirting for manufactured homes shall be constructed of materials intended for exterior use and properly sized and mounted to prevent free access to the crawl space of the dwelling. Adequate means to gain access to the dwelling crawl space, to heating or other mechanical equipment, via inside or outside, shall be furnished.

d. ~~d.~~ The space between the ground and the first floor of every dwelling other than manufactured dwellings shall be enclosed with a masonry curtain wall which shall be reasonably weathertight and rodent proof.

(3) ~~(3)~~ *Roofs.*

a. ~~a.~~ Roofs shall be structurally sound and maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the dwelling. The following may constitute evidence of defects:

1. Missing shingles;
2. Flashing(s) missing;
3. Roof deflection deeper than one-sixth (⅙) of the depth of the rafter and/or rafters cracked;
4. Damage to ceilings (ceiling plaster loose or falling, brown spots, etc.), sheet rock hanging, etc. in rooms below roof; or
5. Fire damage.

b. ~~b.~~ No more than three (3) layers of roofing materials (shingles, shakes, roofing) shall be permitted.

(4) ~~(4)~~ *Attics.* All attics shall be ventilated and shall be provided with ~~a minimum fourteen (14) inch by twenty-four (24) inch access opening from the interior of the structure.~~ an access opening of not less than twenty-two (22) inches by thirty (30) inches, if no such access already exists.

(5) ~~(5)~~ *Insulation.* Insulation rated ~~at least R-19 (or a minimum thickness of four (4) inches)~~ the standard established in ~~Chapter 11 of the North Carolina Building Code,~~the NC Energy Code, and consisting of rock wool (glass), fiberglass or other material exhibiting fire-resistance and insulation capabilities equal to (or greater than) rock wool or fiberglass shall be required in the accessible ceilings or attics of the highest story containing habitable rooms in dwellings, if no such insulation already exists.

(6) ~~(6)~~ *Means of egress (exits).* In multi-family houses having two (2) or more dwelling units above the first floor, every dwelling unit above the first floor shall have access to at least two (2) exit ways. One (1) common exit is permitted provided that all of the following are met:

Exception:

a. ~~a.~~ Maximum distance of travel to reach the exit or stairs from the entrance door to any dwelling unit shall not exceed thirty (30) feet.

b. ~~b.~~ Maximum number of dwelling units served by the exit shall not exceed four (4) per floor.

c. ~~c.~~ Maximum gross area of the dwelling units shall not exceed three thousand five hundred (3,500) square feet per floor.

d. ~~d.~~ Maximum building height shall be one (1) floor above the level of exit discharge.

(7) ~~(7)~~ *Stairs, porches and appurtenances.*

a. ~~a.~~ Every inside and outside 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. Stairs and steps shall be free of holes, grooves and/or cracks large enough to constitute accidental hazards. Risers shall be reasonably uniform in height. Stair coverings shall be securely mounted and shall not interfere with safe use of the stairs.

b. ~~b.~~ Every exit more than thirty-six (36) inches above the finished grade shall be equipped with a porch with dimensions at least as wide and deep as the width of the exit doorway at the exit.

(8) ~~(8)~~ *Protective railings.* Every porch, terrace or entrance platform thirty-six (36) inches above adjacent finish grade shall be equipped with railings or guards not less than thirty (30) inches high. Handrails, continuous on all open sides of stairs exceeding four (4) risers, leading to a platform, porch or terrace, shall be installed at least thirty (30) inches high. Interior stairs exceeding four (4) risers, open on both sides, including basement stairs, shall have a continuous handrail on one (1) side and railing on open portions of the other side. Stairs open on one (1) side exceeding four (4) risers shall have a continuous handrail and railing on the open side. Stairs exceeding four (4) risers, enclosed on both sides, shall have a minimum on one (1) continuous handrail. When exterior stairwell step flight has a total rise of thirty (30) inches or more, a continuous, durable handrail must be maintained.

Handrails or protective railings shall be capable of bearing normally imposed loads and be maintained in good and safe condition. Adjacent horizontal or vertical rails or rail members shall be spaced no more than four (4) inches apart for protection of children when such protective railing is along a platform or stair thirty-six (36) inches or more in height.

(9) ~~(9)~~ *Windows and window assemblies.*

a. ~~a.~~ Each window shall be weathertight, watertight and rodent proof, and shall be kept in good repair. If daylight can be seen around the inside or outside perimeter of the window casing, that window does not meet this standard. Every openable window shall be equipped with an effective locking mechanism or other mechanism that functions as a lock.

b. ~~b.~~ Each window sash shall be fully supplied with glass windowpanes or an approved substitute which are without open cracks or holes. Wood, cardboard or polyethylene or other plastic film are not approved substitutes. A windowpane with a crack or hole must be replaced, provided, however, holes less than one-quarter (¼) inch in surface diameter may be sealed with a clear silicone seal. A broken window (pieces missing or exposed glass edge) must be replaced.

c. ~~c.~~ Each window sash shall be properly fitted and weathertight within the window frame. If daylight can be seen around the inside or outside perimeter of the window sash, that window does not meet this standard.

d. ~~d.~~ Each window required for ventilation for habitable rooms shall be capable of being easily opened or closed and secured in position by window hardware.

(10) *Exterior doors.*

a. ~~a.~~ Every exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight, and rodent proof, and shall be kept in sound working condition and good repair. "Good repair" includes no delamination or splitting of wood doors.

b. ~~b.~~ Every exterior door to a dwelling shall be provided with properly installed hardware that is maintained to ensure reasonable ease of operation to open, close or secure in an open or closed position, as intended by the manufacturer of the door and the attached hardware. Properly installed hardware shall consist of knob, bib and operating lock with sufficient strength to prevent unauthorized entry short of disassembly, force or use of a key or pick. All exterior doors shall be capable of being locked from the inside and outside in a manner that will provide for the safety and security of the occupant(s).

(~~10~~11) *Exterior door frames.*

a. ~~a.~~ Exterior doorframes shall be properly maintained and shall be equipped with weather-stripping and thresholds as required to be substantially weathertight, watertight, and rodent and insect restrictive when the door is in a closed position. If daylight can be seen from inside around the inner perimeter of an exterior doorframe, that door frame does not meet this standard.

b. ~~b.~~ Exterior door jambs, stops, headers and moldings shall be securely attached to the dwelling, maintained in good condition without splitting or deterioration that would minimize the strength and security of the door in a closed position. If daylight can be seen from inside around the outer perimeter of an exterior doorframe, that door frame does not meet this standard.

(12) *Screens.* In order to provide for safe ventilation and to provide for the safety of children, dwelling units which do not have central air-conditioning systems shall have fitted screens in good repair for all operable windows in rooms where the floor level is eight (8) or more feet above finished grade below the window. On floors below eight (8) feet above finished grade, screens are required on operable windows required by section 11-10(b) of this ~~Code~~code. "Good repair" means screens providing a continuous barrier to insects constructed of undamaged metal or plastic screen with at least sixteen (16) by sixteen (16) meshes to the inch or fourteen (14) by eighteen (18) meshes to the inch. Screens shall not be permanently affixed to the window frame or sash by nails, staples or screws.

(13) *Protective treatment.* All exterior wood surfaces (other than decay-resistant woods, such as cedar, redwood, cypress or pressure-treated lumber) shall be protected from the elements and decay by painting or other protective covering or treatment. Minimal chipping or peeling of surfaces not directly exposed to the elements and not reasonably expected to contribute to decay of wood is not required to be treated. All siding shall be weather-resistant and watertight. All masonry joints shall be sufficiently tuckpointed to insure water and airtightness. "Sufficiently tuckpointed" means that mortar shall not be removable by finger pressure.

(14) *Outbuildings.* Garages, storage buildings and all other accessory structures shall be structurally sound. When the condition of plumbing, heating, structural or electrical facilities present an imminent danger

to occupants, or to the public, if such outbuilding is accessible to the public, those facilities shall be made safe in a manner consistent with this ~~Code~~code.

(15) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially vermin-proof, 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. Interior finish shall be free of excessive holes and cracks. No cardboard or other highly combustible or improper wall finish or ceiling finish shall be allowed. All floors shall be level enough so as not to present a tripping hazard. Every bathroom floor surface and kitchen floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be readily kept in a clean and sanitary condition. Every tub or shower area shall have a wall surface constructed and maintained so as to be substantially impervious to water.

(16) *Structural supports.* Every structural element of the dwelling shall be maintained in a structurally sound condition and show no evidence of deterioration which would render it incapable of carrying normal loads. Termites, termite damage, fire damage, absence of footings or cracked or split wood structural supports are examples of evidence of deterioration.

When additional direct support is required, piers shall be used under girders, at walls or other primary support points. Stiff knees shall not be used for girders, at walls or at other primary support points, but may be used for indirect support only.

(17) *Firestopping and draftstopping.* Firestopping shall be maintained to cut off all concealed draft openings both horizontal and vertical and to form a fire barrier between floors and between the upper floor and the roof space.

Draftstopping shall be maintained to cut off all concealed draft openings in floor/ceiling assemblies and in attics.

(18) *Interior door hardware.* Every interior door shall be provided with proper hardware, securely attached and maintained in good condition. Hasp lock assemblies are not permitted on any side of the door of habitable rooms.

(19) *Bathroom access.* Bathroom access shall be provided in a manner that does not require an occupant to leave the dwelling to gain access. Privacy of bathrooms shall be afforded by doors complete with privacy hardware intended by the manufacturer for that purpose.

(20) *Bedroom access.* Privacy of bedrooms shall be afforded by doors complete with privacy hardware intended by the manufacturer for that purpose.

(21) *Water closet, lavatory and bath facilities for boardinghouses.* At least one (1) flush water closet, lavatory basin, and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever such facilities are shared. All such facilities shall be located on the floor they serve within the dwelling so as to be private and reasonably accessible from a common hall or passageway to all persons sharing such facilities.

(e) ~~(e)~~ *Space requirements.*

(1) ~~(1) *Required space.* Every dwelling shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor area per additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms. Provided, however, the requirement of this section shall not be applicable to hotels, motels, and other transient dwellings.~~*Required space.* Every dwelling shall have minimum required space as set forth in Section 304 of the current North Carolina State Building (Residential) Code.

~~(2) *Required space in sleeping rooms.* In every dwelling, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof.~~

(2) ~~(3)~~ *Ceiling height.* Habitable rooms other than kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than seven (7) feet six (6) inches. Hallways, corridors, bathrooms, water closet rooms and kitchens shall have a ceiling height of not less than seven (7) feet six (6) inches measured to the lowest projection from the ceiling.

If any room in a dwelling has a sloping ceiling, the prescribed ceiling height of the room is required in only one-half (½) the room area. No portion of the room measuring less than five (5) feet from the finished floor to the finished ceiling shall be included in any computation of the minimum floor area.

(3) ~~(4)~~ *Occupancy below grade.* No basement or cellar space shall be used as a habitable room or dwelling unless:

a. ~~a.~~ The floor and walls are resistant to leakage of underground and surface runoff water, and show no evidence of recent water leakage or accumulation; and

b. ~~b.~~ The total window area (or window well area) is equal to at least the minimum window and ventilation areas described in section 11-10(b) of this ~~Code~~code, except that in non-sleeping rooms, mechanical ventilation and electric light may be used in place of window ventilation and light; and

c. ~~c.~~ An easily accessible means of fire escape in addition to the basement or cellar stair is provided. Windows which are easily accessible and of sufficient size to accommodate occupants escaping a fire are acceptable.

(f) *Sanitation requirements.* Every owner of a dwelling shall provide a clean, safe and sanitary dwelling at the time of tenant occupancy and shall be responsible for maintaining in a clean, safe and sanitary condition outbuildings and appurtenances to the extent that such outbuildings and appurtenances are regulated by this code.

Tenants shall be responsible for maintaining a clean and sanitary structure in regard to cleanliness, accumulation of garbage and/or rubbish inside the dwelling and any outside areas associated with the dwelling.

(g) *Extermination.* Every owner of a multifamily dwelling or a boardinghouse dwelling shall be responsible for the extermination of any insects, rodents, or other pests within the dwelling or premises. If the owner fails to provide such extermination services and evidence of insect, rodent or other pest infestation is present, extermination shall be ordered by a community code ~~enforcement~~ official. Such extermination shall be conducted by a licensed exterminator. Monthly extermination treatment is the maximum that an owner shall be required to provide.

Every occupant of a dwelling containing a single unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises.

(h) *Violation(s) of state building code regulations for existing dwellings.* A dwelling that is not in compliance with Volume I, Chapter 34 of the N.C. State Building Code or Volume IX of the N.C. State Building Code shall be considered unfit and ineligible for a housing certificate under this Code unless the owner has been granted a building permit for work that would bring the structure into compliance with either Volume I, Chapter 34 or Volume IX of the North Carolina State Building Code. Expiration of the permit without completion of such work shall result in revocation of the housing certificate issued for such dwelling.

(i) ~~[~~*Compliance with building codes required for ordered repairs*~~.]~~. All repairs made as a result of orders issued under this code shall be completed in compliance with the North Carolina State Building Code and in accordance with construction and repair methods generally accepted in the industry. All materials used in a specific application shall be approved for use in that application and shall be compatible in appearance with surrounding materials.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01; Ord. No. 0-06-70, § 1, 7-10-06; Ord. No. O-2009-34, § 1, 4-27-09)

Sec. 11-11. Alternate means.

(a) ~~(a)~~ The supervisor ~~administrator~~ may authorize an alternate means of meeting the requirements of this code only under the following circumstances as established by the owner(s):

(1) ~~(1)~~ The condition for which the alternate means is sought is not one (1) of the conditions set forth in section 11-9 of this ~~Code.~~ code.

(2) ~~(2)~~ The condition for which the alternate means is sought is an element of the fundamental and original construction of the dwelling. "Fundamental and original construction" includes foundation dimensions, ceiling height, organization of habitable space, and any other condition governed by the original structure of the dwelling; and

(3) ~~(3)~~ There exists a demonstrable alternate means of meeting the intent of this code.

(b) ~~(b)~~ In the event that the community code ~~enforcement~~ official withholds approval of one (1) or more plumbing, electrical, mechanical, structural or fire safety components, the community code ~~enforcement~~ official may accept approval of such components without further corrections upon receipt of a report from an appropriately licensed contractor, architect or engineer certified in North Carolina, as specified by the community code ~~enforcement~~ official in writing.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-12. Reserved.

Sec. 11-13. Duties of tenants.

This code is not intended to interfere with or abrogate the duties imposed on tenants of rental property by N.C.G.S. § 42-43, or with lawful written agreements between property owners and tenants.

~~(a) Every occupant of a dwelling unit or an apartment shall:~~

~~(1) Keep that part of a dwelling unit or an apartment which he/she occupies and controls in a clean and sanitary condition.~~

~~(2) Keep all required plumbing and other fixtures in a clean and sanitary condition, and exercise reasonable care in the use and operation thereof.~~

~~(3) Be responsible for the extermination of any insects, rodents, or other pests whenever said dwelling or apartment is the only one in the residential building infested and the owner has provided a reasonably insect-proof and adequate rodent-proof building.~~

~~(4) Dispose of all garbage and other refuse in an approved garbage receptacle; when approved garbage receptacles are not provided by the landlord, it shall be the responsibility of the occupant to provide adequate approved garbage receptacles.~~

~~(5) Not place on the premises any material which causes a fire hazard or otherwise endangers the health and safety of any occupants of such building; not place in storage or on the premises any furniture, auto parts, junk, equipment, or material which harbors insects, rodents, or other pests.~~

~~(6) Not occupy any dwelling unit unless running water is provided to the required plumbing fixtures, including the restoration of water and sewer service when the service account is in the name of the occupant.~~

~~(7) Not place within any structure for use therein any oil- or gas-fired portable or non-vented cookstove or heater.~~

~~(8) Cause such damage to the dwelling unit or apartment let to him/her as to make the same unfit for human habitation.~~

~~(9) Not place on the premises for the use thereon any heating or cooking unit which constitutes a fire hazard.~~

~~(10) Maintain necessary utilities for operation of equipment when the utility accounts are in the name of the occupant.~~

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-14. Responsibility of owner.

(a) The owner remains responsible for complying with the provisions of this code, even though:

(1) ~~(1)~~ An obligation is also imposed on the occupants.

(2) ~~(2)~~ The owner has, by agreement, imposed on the occupant the duty of complying with this code.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-15. Reserved.

Sec. 11-16. Powers of community code ~~enforcement official~~officials.

~~(a)~~ *General.*

(a) ~~(1)~~ The supervisor ~~administrator shall have such~~is authorized to exercise any powers ~~as may be~~ necessary~~, lawful,~~ or convenient to carry out and effectuate the purpose and provisions of this code, including ~~(without limiting the generality of the foregoing)~~ the following powers~~:~~ in addition to others herein granted:

(1) ~~a.~~ To investigate the dwelling conditions in the city in order to determine which dwellings therein are unfit for human habitation.

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

(3) ~~c.~~ To enter upon premises for the purpose of making inspections in a manner that will cause the least possible inconvenience to the persons in possession.

(4) ~~d.~~ To appoint and fix the duties~~, as provided in this code,~~ of ~~such officials~~officers, agents, and employees as he deems necessary to carry out the purpose of this code.

(5) ~~(b)~~ To delegate any of his or her functions and powers under this code to other officers and other agents.

(b) *Inspections.*

~~(1)~~ It shall be the duty of the community code ~~enforcement~~ official to periodically examine the dwellings located in the city for the purpose of determining the fitness of dwellings for human habitation, and for the enforcement and administration of this code.

(1) In exercising this power, the community code ~~enforcement~~ official shall have a right to enter on any premises within the city at all reasonable hours (between 8:30 a.m. and 5:00 p.m., Monday through Friday, and at the convenience of the occupant) for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Upon refusal after proper notice, the community code ~~enforcement~~ official shall have the right to inspect pursuant to Chapter 15, Article 4A ~~of Chapter 15~~, of the ~~N.C.~~North Carolina General Statutes, as amended.

(2) ~~(2)~~ If, during the course of an inspection, the community code ~~enforcement~~ official finds evidence of construction in progress that would require a permit (or permits) pursuant to ~~North Carolina General Statutes, Section~~N.C.G.S. § 160A-417, the owner shall produce evidence that such permit(s) have been obtained prior to issuance of any housing certificate.

(3) ~~(3)~~ It shall be the responsibility of the owner to relocate any moveable obstructions (furniture, boxes, appliances and construction materials, for example) that would otherwise interfere with a complete housing certificate inspection. The community code ~~enforcement~~ official shall not be responsible for failure to detect violations of this code when such violations are concealed behind, under or above walls, floors, ceilings or other fixed components of the dwelling.

(4) ~~(4)~~ An inspection undertaken on behalf of the owner of one (1) or more dwellings by a third-party federal agency or insurer may be considered equivalent in whole or in part to a housing certificate inspection conducted pursuant to this code, provided that the following conditions are met:

a. ~~a.~~ Such inspections are undertaken no less frequently than otherwise required by this code;

b. ~~b.~~ Inspections standards utilized by the third-party inspector are approved by the supervisor ~~administrator~~ in writing as equivalent in whole or in part;

c. ~~c.~~ The third-party inspector acknowledges in writing that this inspection may be considered equivalent in whole or in part to a housing certificate inspection conducted pursuant to this code and agrees in writing to hold the city harmless against any and all claims in connection with such inspection;

d. ~~d.~~ Should such third-party inspection be considered equivalent only in part to a housing certificate inspection conducted pursuant to this code, all other provisions of this section shall continue to apply, and the community code ~~enforcement~~ official shall assume responsibility for ~~reinspections~~re-inspections required subsequent to the initial inspection; and

e. ~~e.~~ Should the community code ~~enforcement~~ official learn that the third-party inspection does not meet the standards represented to the supervisor for approval in writing, all

dwellings inspected through such third-party inspections may be subsequently subject to housing certificate inspections on an annual basis for three (3) years.

(5) ~~(5)~~ For purposes of this section, the Rocky Mount Housing Authority is herewith authorized to enforce this code in dwelling units owned or regulated by the Rocky Mount Housing Authority, using inspection report forms approved by the supervisor.

(6) ~~(6)~~ The results of an inspection conducted under authority of this section shall be turned over to the community code ~~enforcement~~ official in written form within five (5) working days of completion of such inspection. The community code ~~enforcement~~ official shall proceed with any enforcement actions as if the inspection had taken place under the authority of this code.

(7) ~~(7)~~ The supervisor ~~administrator~~ shall maintain a listing of approved third-party inspection programs.

(c) ~~(c)~~ *Housing certificate (certificate of compliance).*

(1) ~~(1)~~ The supervisor ~~administrator~~ shall issue a housing certificate (certificate of compliance) upon conducting a final inspection and finding that said structure fully complies with this code, however no housing certificate or temporary housing certificate shall be issued if electrical service, smoke detection system, and/or water service is not present at the time of inspection.

(2) ~~(2)~~ Where no condition as described in section 11-9 of this ~~Code~~code is involved, the community code ~~enforcement~~ official may issue a temporary housing certificate to an owner for up to ninety (90) days contingent upon completion of specified corrections or improvements, provided that the owner agrees to vacate the dwelling immediately upon the failure to complete those corrections or improvements within the effective period of any temporary certificate. Under such circumstances, upon expiration of the temporary housing certificate, the dwelling shall be deemed unfit, and the community code ~~enforcement~~ official may proceed to enforce this code. Temporary housing certificates are not renewable or extendible.

(d) ~~(d)~~ *Fee.* The ~~housing~~ community code division will charge the owner such inspection fees as may be established from time to time by the city council as set forth in the manual of city policies.

(e) ~~(e)~~ *Reports.* Inspection findings will be recorded on standardized report forms and provided to the owner and/or occupants. Such standardized reports shall include specific references to sections of this code when any violations are recorded. The reports shall contain notice of any deficiencies under this code and inform the owner of any deadline to remedy the deficiencies. Within five (5) days of the owner's receipt of such report, the owner(s) shall advise the occupants of the dwelling, if any, of any deficiencies under this code that are identified in the report. If any of the deficiencies enumerated in such report are among those set forth in section 11-9 of this Code, the owner(s) shall advise all occupants of the building of such deficiencies within five (5) days of the owner's receipt of such report.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-17. Enforcement.

(a) *Determination of value.* The community code official is hereby authorized to fix the reasonable value of any dwelling or abandoned structure for the purpose of this code at the amount set forth in the Edgecombe or Nash County property tax listing (as adjusted by the Edgecombe or Nash County Assessor, or pursuant to the assessor's instruction), not including land value. Such value shall be binding unless the owner provides for delivery of a written appraisal conducted within three hundred sixty-five (365) days of the order as to the reasonable value of the dwelling prepared by a North Carolina state certified residential appraiser within

fifteen (15) days after receipt of an order, in which case such written appraisal shall be binding for purposes of this code.

(b) *Service of complaints and orders.*

(1) Complaints and orders issued by the community code official pursuant to this code 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, and the regular mail is not returned by the post office within ten (10) days after mailing. The person mailing such complaint or order by regular mail shall certify to that fact and the date thereof, and such certificate shall be deemed conclusive in the absence of fraud. If regular mail is used, the notice of the pending proceeding shall be posted (in a conspicuous place on the property affected.

(2) If the identities of any owner or parties in interest or the whereabouts of such persons are unknown and cannot be ascertained in the exercise of reasonable diligence, or, if the owner or parties in interest are known but have refused to accept service by registered or certified mail, and if the community code official makes an affidavit to that effect, then the serving of the complaint or order upon the owners or parties in interest may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required by this code. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the property affected.)

(c) *Lis Pendens.* Upon the issuance of a complaint and notice of hearing or order pursuant to it, a notice of lis pendens, with a copy of the complaint and notice of hearing or order attached to it, may be filed in the office of the clerk of superior court of the county where the property is located. When a notice of lis pendens and a copy of the complaint and notice of hearing or order is filed with the clerk of superior court, it shall be indexed and cross-indexed in accordance with the indexing procedures of N.C.G.S. § 1-117. From the date and time of indexing, the complaint and notice of hearing or order is binding upon the successors and assigns of the owners and parties in interest of the dwelling. A copy of the notice of lis pendens shall be served upon the owners and parties in interest of the dwelling at the time of filing in accordance with subsection (b). The notice of lis pendens remains in full force and effect until cancelled.

(f)(d) *Issuance of complaint.*

(1) (1) Whenever a petition or complaint is filed with the community code enforcement official by a public authority, or by at least five (5) residents of the city, charging that any dwelling is unfit for human habitation, or whenever it appears to the public community code official (on his own motion) that any dwelling is unfit for human habitation, the community code enforcement official shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges of violations of this code. Said complaint shall list the code deficiencies, and contain a notice that a hearing will be held before the supervisor administrator at a place within the city at a time fixed not less than ten (10) days nor more than thirty (30) days after the serving of said complaint. The notice shall also notify the owner and parties in interest that they have the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the supervisor administrator. All complaints, notices of hearing, and orders issued by the community code enforcement official may be filed as notice of lis pendens in the Office of the Clerk of Superior Court for Edgecombe or Nash County, as appropriate. A copy of the notice of lis pendens when filed shall be served upon the owner(s) and parties in interest of such dwellings at the time of filing.

(2) ~~(2)~~ Provided, however, the community code ~~enforcement~~ official may, prior to the issuance of a complaint, serve the property owner or property owner's agent with a violation notice giving the property owner up to ninety (90) days to correct the violation(s).

~~(g)~~(e) ~~(b)~~ *Findings of fact and order.* If, after such notice and hearing, the supervisor ~~administrator~~ determines that the dwelling under consideration is unsafe or unfit for human habitation, according to the standards of this code, 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. All orders issued by the supervisor administrator may be filed in the notice lis pendens in the Office of the Clerk of Superior Court of Edgecombe or Nash County, as appropriate.~~one of the following orders, as appropriate:

(1) ~~(1)~~ *Deteriorated.* If the dwelling is found to be deteriorated as defined in this code, the supervisor ~~administrator~~ shall by order require the owner to repair, alter, or improve such dwelling so as to bring it into compliance with this code within a period not to exceed ninety (90) days of the service of the order upon the owner~~. Such order may also direct and require the owner to vacate and close the dwelling as a human habitation. Where the supervisor administrator finds~~; provided, however, that if the supervisor finds there is an imminent danger to life or other property, he may order ~~that~~ corrective action be taken ~~in~~within such lesser period as may be reasonably necessary~~. If the dwelling is vacant at~~ and feasible. The order may also 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; and the ~~order is issued, it may not be occupied until~~current state of the ~~dwelling is in full compliance~~property.~~; and any additional risks due to the presence and capacity of minors under the age of eighteen (18) or occupants with physical or mental disabilities.~~ The order shall state that the failure to make timely repairs as directed in the order~~; or if the dwelling becomes vacant after the order is issued, the dwelling shall not be reoccupied and utilities~~ shall ~~not be connected until~~make the dwelling ~~is in full compliance with~~subject to the ~~order.~~ issuance of an unfit order under subsection (g).

(2) ~~(2)~~ *Dilapidated.* If the dwelling is found to be dilapidated as defined in this code, the supervisor may by order require the owner to remove or demolish such dwelling within a period not to exceed ninety (90) days of the service of the order~~. Where~~; provided, however, that if the supervisor finds ~~that~~ there is an imminent danger to life or other property, he may order ~~that~~ corrective action be taken ~~in~~within such lesser period as may be reasonably necessary ~~to bring the dwelling into compliance with this code within the correction action period imposed by such order.~~and feasible.

(3) ~~(3) Prior orders~~*Historic Districts.* Notwithstanding any other provision of law, if the dwelling is located in a historic district of the city and the historic district commission determines, after an administrative hearing as provided by ordinance, that the dwelling is of particular significance or ~~ordinances~~ 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 N.C.G.S. § 160D-949.

(f) *Additional notices to affordable housing organizations.* ~~directing~~ Whenever a determination is made pursuant to subsection (e) that a dwelling must be vacated and closed, or removed or demolished, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of forty-five (45) days from the mailing of such notice shall be given before removal or demolition~~. If the city council has adopted an ordinance, or~~ by action of the supervisor, 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 supervisor 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 forty-five (45) days before causing removal or demolition.

(g) *Action upon failure to comply with order.*

(1) ~~administrator has issued an order, ordering a~~*Repair, closing, and posting.* If the owner of a dwelling fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the supervisor may cause the dwelling to be repaired, altered, or improved, or to be vacated and closed. The supervisor may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: *"This dwelling is unfit for human habitation. The use or occupation of this dwelling for human habitation is prohibited and unlawful."* ~~or vacated and closed, as provided in section 11-17(b)(1), and if the owner has vacated and closed such dwelling and kept such dwelling~~ Occupation of a dwelling so posted shall constitute a Class 1 misdemeanor. The duties of the supervisor set forth in this subdivision (g)(1) shall not be exercised until the city council shall have by ordinance ordered the supervisor to proceed to effectuate the purpose of this code with respect to the particular property or properties that the supervisor shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. The 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.

(2) *Demolition.* If the owner fails to comply with an order to remove or demolish the dwelling, the supervisor may cause such dwelling to be removed or demolished. The duties of the supervisor set forth in this subsection (g)(2) shall not be exercised until the city council shall have by ordinance ordered the supervisor to proceed to effectuate the purpose of this code with respect to the particular property or properties that the supervisor 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.

(h) *Abandonment of intent to repair.* If the dwelling has been vacated and closed for a period of one (1) year ~~pursuant to the ordinance or order~~following either an ordinance adopted pursuant to subsection (g)(1) or after the supervisor 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 section, then ~~if~~ the city council ~~shall~~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, ~~morals~~ and welfare of the city 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 ~~which~~that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this ~~state~~State, then in such circumstances, the city council may, after the expiration of such one ~~(1)~~ year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) ~~a. That~~If it is determined that the repair of the dwelling to render it fit for human habitation can be made at ~~an estimated~~ a cost not exceeding ~~of less than forty (40)~~ fifty ~~(50)~~ percent (50%) of the then current value of the ~~welling~~dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days~~; or~~.

(2) ~~b. That~~If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at ~~an estimated~~ a cost not exceeding ~~forty (40)~~ fifty ~~(50)~~ percent (50%) of the then current

value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.

~~c. That the~~The ordinance shall be recorded in the ~~Office~~office of the ~~Register~~register of ~~Deeds of Edgecombe or Nash County, as appropriate~~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. ~~That failure~~If the owner fails to comply with the ordinance, the public officer shall ~~authorize the supervisor to~~ effectuate the purpose of the ordinance.

~~(4) Historic district. Notwithstanding any other provision of law, if the dwelling is located in a historic district of the city 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 N.C. General Statute Section 160A-400.14(a).~~

~~(i)(a) (c) *Action upon failure to comply with order.*~~

~~(1) If the owner of a dwelling fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the supervisor administrator may cause the dwelling to be repaired, altered, or improved, or to be vacated and closed. The supervisor administrator may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words:~~

~~"This dwelling is unfit for human habitation. *The use or occupation of this dwelling for human habitation is prohibited and unlawful.*"~~

(i) *Unsafe Dwellings ~~Condemned~~.*

(1) In addition to the other authority granted in this code, the supervisor may declare a dwelling within a community development target area (hereinafter defined) to be unsafe if it meets all of the following conditions:

a. It appears to the supervisor to be vacant or abandoned; and

b. It appears to the supervisor 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.

If the supervisor declares a dwelling to be unsafe under this subsection (i)(1), the supervisor shall affix a notice of the unsafe character of the dwelling to a conspicuous place on the exterior wall of the dwelling. Occupation of a dwelling so posted shall constitute a Class 1 misdemeanor.

~~(2)~~ For the purposes of this subsection (i), the term "community development target area" means an area that has characteristics of an urban progress zone under N.C.G.S. § 143B-437.09, a "nonresidential redevelopment area" under N.C.G.S. § 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens.

(2) If the owner of a dwelling that has been ~~condemned as~~determined to be unsafe pursuant subsection (i)(1) fails to take prompt corrective action, the supervisor shall give written notice, by certified mail to the owner's last known address or by personal service, of all of the following:

a. That the dwelling is in a condition that appears to meet one or more of the following conditions: (i) constitutes a fire or safety hazard; (ii) is dangerous to life, health, or other property; (iii) is likely to cause or contribute to blight, disease, vagrancy, or danger to children;

(iv) has a tendency to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

b. That an administrative hearing will be held before the supervisor at a designated place and time, not later than ten (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.

c. That following the hearing, the supervisor 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 dwelling in question at least ten (10) days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city's area of jurisdiction at least once not later than one (1) week prior to the hearing.

(3) If, upon a hearing held pursuant to the notice prescribed in subsection (i)(2), the supervisor finds that the dwelling is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, the supervisor shall make an order in writing, directed to the owner of such dwelling, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the dwelling or taking other necessary steps, within such period, not less than sixty (60) days, as the supervisor may prescribe; provided that where the supervisor finds that there is imminent danger to life or other property, the supervisor may order that corrective action be taken in such lesser period as may be reasonably necessary and feasible.

If the owner fails to comply with an order issued pursuant to ~~remove or demolish the dwelling,~~subsection (i)(3), the supervisor ~~administrator~~ may cause such dwelling to be removed or demolished.

~~(1)~~(4)~~(3)~~ The ~~order~~duties of the supervisor ~~administrator to repair, alter, improve, vacate and close or remove and demolish~~set forth in this subsection (i)(4) shall not be exercised until the city council shall have by ordinance ordered the supervisor ~~administrator~~ to proceed to effectuate the purpose of this code with respect to the particular property or properties ~~which~~that the supervisor ~~administrator~~ shall have found to be ~~unfit for human habitation or~~ unsafe 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 this code. ~~Provided, however, nothing in this code shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise. Such ordinance shall be recorded in the Office of the Register of Deeds for Edgecombe and Nash County as appropriate.~~ 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.

(j) ~~(4)~~ *Liens.*

~~(2)~~(1)The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the supervisor ~~administrator~~ 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 North Carolina General Statutes. If the dwelling is removed or demolished by the supervisor administrator, any article of personal property, fixtures or appurtenances found in or attached to the dwelling may be removed for safekeeping in a city warehouse. Written notice of each removal of personal property, fixtures or appurtenances found in or attached to the dwelling shall be promptly given to the owner of the~~

~~articles of personal property to the extent that the identity of such persons is known or may be reasonably ascertained.~~ Chapter 160A, Article 10, of the North Carolina General Statutes.

~~The owner or any other person who may be entitled to possession of any such articles of personal property, fixtures, or appurtenances found in or attached to the dwelling, before obtaining possession thereof, shall pay to the city all reasonable costs incident to removal, storage and locating the owner of the property or any other person who may be entitled to possession thereof. If the owner or other person who may be entitled to possession fails or refuses to pay the costs, or if the identity or whereabouts of the owner is unknown and unascertainable after a diligent search has been made and after notice to him at his last known address, the supervisor administrator may, after holding the property for thirty (30) days, dispose of the same by public sale after ten (10) days. Public notice shall be published in a local newspaper of general circulation, and the proceeds of the sale shall be forwarded to the finance director of the city. The finance director shall pay, from the proceeds of the sale, costs of removal, storage, investigation as to ownership and sale, and liens, in that order; and any remaining proceeds shall be deposited to the general fund of the city, subject to the following: If the ownership of the property is established satisfactorily to the finance director, the owner shall be paid by such official so much of the proceeds from the sale of the property as remains after paying the costs of removal, storage, investigation as to ownership and sale, and any liens thereon.~~

(2) ~~(5)~~ If the real property upon which the cost was incurred is located in the 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 (1) mile thereof except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment.

(3) If the dwelling is removed or demolished by the supervisor, the city shall sell the useable 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.

~~(j)~~(k) *Civil action.* If any occupant fails to comply with an order to vacate a dwelling, the supervisor ~~administrator~~ 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 in Edgecombe or Nash County, as appropriate, shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place, not to exceed ten (10) days from the issuance of the summons, to answer the complaint. The summons and complaint shall be served as provided in ~~North Carolina General Statute, Section~~N.C.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 supervisor ~~administrator~~ produces a certified copy of an ordinance adopted by the city pursuant to subsection (~~c)(3~~g)(2) of this section authorizing the supervisor ~~administrator~~ 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 upon under N.C. ~~General Statute, Section~~G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in N.C. ~~General Statute, Section~~G.S. § 7A-228, and the execution of such judgment may be stayed as provided in ~~North Carolina General Statute, Section~~N.C.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 summary ejectment proceeding pursuant to this ~~section~~subsection unless such occupant has been served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the city has ordered the supervisor ~~administrator~~ to proceed to exercise his duties under subsection (g) of this section to vacate and close or remove and demolish the dwelling.

(6) *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.

(d) *Determination of value.* The code enforcement official is hereby authorized to fix the reasonable value of any dwelling or abandoned structure for the purpose of this code at the amount set forth in the Edgecombe or Nash County property tax listing (as adjusted by the Edgecombe or Nash County Assessor, or pursuant to the assessor's instruction), not including land value. Such value shall be binding unless the owner provides for delivery of a written appraisal conducted within three hundred sixty-five (365) days of the order as to the reasonable value of the dwelling prepared by a North Carolina state certified residential appraiser within fifteen (15) days after receipt of an order from the supervisor. Such written appraisal shall be binding and conclusive for purposes of this code.

(e) *Service of complaints and orders.* Complaints and orders issued by the community code enforcement official pursuant to this code shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, and the regular mail is not returned by the post office within ten (10) days after mailing. The person mailing such complaint or order by regular mail shall certify to that fact and the date thereof, and such certificate shall be deemed conclusive in the absence of fraud. If regular mail is used, the notice of the pending proceeding shall be posted on the property affected.

If the identities of any owner or parties in interest or the whereabouts of such persons are unknown and cannot be ascertained in the exercise of reasonable diligence, or, if the owner or parties in interest are known but have refused to accept service by registered or certified mail, and if the community code enforcement official makes an affidavit to that effect, then the serving of the complaint or order upon the owners or parties in interest may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required by this code. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the property affected.

(k)(l) (f) *Equitable enforcement.* In caseIf any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this code or anyChapter 160D, Article 12, of the North Carolina General Statutes, or of any ordinance or code adopted under the authority thereof, including this code, or of any valid order or decision of the supervisor administrator or housingor community appeals board made pursuant to this code, the supervisor administratoror community appeals board, as appropriate, may institute any appropriate action or proceedings to prevent suchthe unlawful erection, construction, reconstruction, alteration, or use,; to restrain, correct, or abate suchthe violation and; to prevent the occupancy of the dwelling.; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling.

(g) *Criminal enforcement.* A violation of any provision of this code shall constitute a misdemeanor, and the violator may be fined up to five hundred dollars ($500.00) or up to thirty (30) days imprisonment or both for each offense, in the discretion of the court.

~~(l)~~(m) ~~(h)~~ *Civil enforcement*. An owner who fails to comply with an order to repair or to improve, vacate, close, or demolish any dwelling determined unfit for human habitation pursuant to the provisions contained in this code, or who permits the occupancy or ~~reoccupancy~~re-occupancy of an unsafe or unfit dwelling in violation of this code, shall be subject to a civil penalty of one hundred dollars ($100.00) for the first day following the expiration of an order to repair or improve, vacate or close any occupied dwelling or following a determination that an unfit dwelling has been reoccupied in violation of this code. In each instance, a penalty of twenty-five dollars ($25.00) per day shall be imposed for each subsequent day that such failure to comply continues. If a person fails to pay the civil penalty within ten (10) days after being notified of the amount due, the city may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt. Upon the findings of the ~~housing~~ community code ~~inspector~~official where there exists no smoke detector(s) in a dwelling or dwelling unit, or where smoke detector(s) have been improperly installed or maintained; he shall order that the smoke detector(s) shall be installed or made operable in accordance with this section within seventy-two (72) hours of proper notification to the owner or his agent. The property owner or his agent shall be notified either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after mailing. If regular mail is used, the notice of violation shall be posted on the property affected. Failure of the property owner or agent to take corrective action within seventy-two (72) hours of proper notification shall result in a civil penalty for each day the violation exists. The civil penalty amount shall be determined by the city council and shall be published in the Manual of City Policies. If a person fails to pay the civil penalty within ten (10) days after being notified of the amount due, the city may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

~~(i) *One-step service process.* In lieu of the procedure set forth hereinbefore, the community code enforcement official may proceed as set forth in this subparagraph (i) whenever it appears to the community code enforcement official that any dwelling is extremely dilapidated and meets the following conditions:~~

~~(1) It has been determined by the code enforcement official to be either:~~

~~a. At least fifty (50) percent destroyed by fire or other casualty; or~~

~~b. Unable to be repaired, altered or established to comply with all of the standards by this code at a cost of less than seventy-five (75) percent of its value;~~

~~(2) It is not occupied; and~~

~~(3) For at least one (1) year, there has been no record of electrical service as required by section 11-10(c)(1) of this code; no record of potable water supply as required by section 11-10(a)(1) of this code; or for at least one (1) year similar conditions have existed at the property which indicate the dwelling has not been lawfully occupied.~~

~~When the foregoing conditions are satisfied, the community code enforcement official may serve the owner and parties in interest with a notice of violation of the code and set a date not less than thirty (30) days from the date of service within which the owner shall either commence rehabilitation so as to bring the dwelling into compliance with the code or commence demolition proceedings. The notice shall also inform the owner and parties in interest that if corrections or demolition proceedings are not commenced within the time period specified, the community code enforcement official shall, without further notice or further request of the governing body, cause the demolition of the dwelling and place a lien against the property as set forth hereinbelow.~~

~~If the owner or any party in interest submits written objection to the community code enforcement official proceeding against the dwelling within the time period specified in the notice of violation, the community code enforcement official shall cease any further efforts at compliance under this~~

~~subparagraph but may proceed in accordance with other provisions of the code. If the owner or a party in interest does not submit written objection to the community code enforcement official's proceeding against the dwelling within the time period specified in the notice of violation, the community code enforcement official shall document that the conditions set forth in this subparagraph exist, enter an order to that effect and cause the dwelling to be demolished. The community code enforcement official shall be under no further obligation to notify or serve the owner or any party in interest where there is no written objection within the time period specified in the notice of violation. The amount of the cost of the demolition by the community code enforcement official shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the North Carolina General Statutes.~~

~~(m)~~(n) ~~Civil actions against the city for proceeding under this subparagraph must be filed within nine (9) months from the date the violation notice is served upon the aggrieved party.~~ Nothing in this code shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-98-27, §§ 1, 2, 4-13-98; Ord. No. 0-01-57, § 1, 7-23-01; Ord. No. O-2006-41, § 1, 2-12-06; Ord. No. O-2009-14, § 1, 2-23-09)

Sec. 11-18. Appeal procedures.

(a) ~~(a)~~ *To supervisor ~~administrator~~.* Any owner may file a written appeal to the supervisor ~~administrator~~ within ten (10) days after issuance of the community code ~~enforcement~~ official's report to the owner~~, with the supervisor administrator~~. The supervisor ~~administrator~~ is hereby given authority to rule on any dispute arising out of the interpretation of this code by the code enforcement official. The supervisor will either affirm, reverse or modify the ruling of the code enforcement official.

(b) ~~(b)~~ *Community appeals board.* A community appeals board is hereby created to which appeals on the record may be taken by an owner or other party in interest from any decision or order by the supervisor ~~administrator~~ or from the assessment of any civil penalty. All appeals heard by the community appeals board shall be quasi-judicial in nature. The community appeals board shall consist of seven (7) members appointed by the city council and serving for three-year staggered terms. Each of the seven (7) wards located within the city shall have a representative that resides within the respective ward on the board. Four (4) members must be present in order to establish a quorum. The board shall have the power to elect its own officials, to fix the time and places for 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 keep an accurate record of all its proceedings. In addition to hearing appeals under this chapter, the community appeals board shall also be responsible for hearing appeals under certain sections of ~~chapter~~Chapter 4 and ~~chapter~~Chapter 10 of the Code of Ordinances of the City ~~Code~~of Rocky Mount.

(1) ~~(1)~~ An appeal from any decision or order of the supervisor ~~administrator~~ may be taken by any person aggrieved thereby. Such appeal shall be taken within ten (10) days from the service of the order and shall be taken by filing with the supervisor ~~administrator~~ and with the board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon filing of any notice of appeal, the supervisor ~~advisor~~ shall forthwith transmit to the board all papers constituting the record upon which the decision appealed from was made. When an appeal is from the decision of the supervisor ~~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 supervisor ~~administrator~~ requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the supervisor

~~administrator~~ certifies to the board, after the notice of appeal is filed with him, that by, reason of the facts stated in the certificate (a copy of which shall be furnished to the petitioner) a suspension of his requirement would, in his opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with the enforcement of the ordinance. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the community appeals board or by a court of record on application, on notice to the official from whom the appeal is taken and on due cause shown. To this end the community appeals board shall have all the powers of the official from whom the appeal is taken.

(2) ~~(2)~~ Any person assessed a civil penalty in accordance with section 11-17(~~h)~~,m) may appeal the assessment by filing a written notice of appeal with the supervisor ~~administrator~~ and the board within thirty (30) days from the date of assessment. Failure to file a notice of appeal within this time period shall constitute a waiver of the right to contest the civil penalty. The city manager may establish rules and procedures that govern the appeal hearing process. Such rules may include a requirement that, for specified violations, a bond equal to the amount of the civil penalty be posted at the time a notice of appeal is filed.

(3) ~~(3)~~ The board shall affix a reasonable time for the hearing of appeals, shall give due notice to all 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, affirm, in whole or in part, or may modify the decision or order appealed. ~~A~~ majority vote of the board shall be necessary to reverse or modify any decision or order of the supervisor ~~administrator.~~. The board shall have the power also in passing upon appeals in any case where there are practical difficulties or undue hardships in the way of carrying out the strict letter of ~~the~~this code, to adapt the application of ~~the~~this code, to the necessities of the case to the end that the spirit of the code shall be observed, public safety and welfare secured, and substantial justice done.

(4) ~~(4)~~ The board shall affix a reasonable time to hear a civil penalty appeal, shall give due notice to all parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board shall determine whether the civil penalty assessed was reasonable in light of the violation and may affirm, eliminate, or reduce the civil penalty. A majority vote of the board shall be required to eliminate or reduce any civil penalty.

(5) ~~(5)~~ Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted in Edgecombe or Nash County Superior Court, as appropriate, within fifteen (15) days after the written decision of the board is filed or after a copy thereof is delivered to the appealing party, whichever is later. The decision of the board may be delivered to the aggrieved party either by hand delivery or by any method authorized by the North Carolina Rules of Civil Procedure.

(c) ~~(c)~~ *Injunction.* Any person aggrieved by a decision rendered by the board may petition the superior court for an injunction restraining the community code ~~enforcement~~ official from carrying out the order or decision and the court may upon such petition, issue a temporary injunction restraining the community code ~~enforcement~~ official pending a final disposition of the cause; provided, however, that such petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01; Ord. No. O-2009-36, § 1, 5-11-09; Ord. No. O-2011-85, § 3, 9-12-11)

Sec. 11-19. Other unlawful acts.

(a) ~~(a)~~ It shall be unlawful for any person, firm or corporation to remove (or permit the removal of), damage or deface any complaint, notice, order or certificate posted in accordance with the provisions of this code, unless the community code ~~enforcement~~ official consents in writing to such action.

(b) ~~(b)~~ It shall be unlawful for the owner or owner's agents of any dwelling subject to the provisions of this code to fail to furnish to the buyer(s) a copy of the inspection findings or report prior to closing or other property transfer of such dwelling.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

Sec. 11-20. Reserved.

Sec. 11-21. Invalidity.

Notwithstanding any other evidence of intent, it is hereby declared to be the controlling intent of the city council of the City of Rocky Mount that if any provision of this code or the application thereof to any person, firm, or corporation or circumstances is held invalid, the remainder of this code and the application of such provisions to persons, firms, or corporations or circumstances other than those to which it is held invalid, shall not be affected thereby.

(Ord. No. 0-98-20, § 1, 3-9-98; Ord. No. 0-01-57, § 1, 7-23-01)

MEMORANDUM

ROCKY MOUNT
PARKS AND RECREATION
THE CENTER OF IT ALL

To: Peter Varney, Interim City Manager

Cc: Elton Daniels, Assistant City Manager

From: Joel Dunn, Director of Parks and Recreation

Date: 11/7/2022

Re: Recommendations for Cemetery ordinance changes

The purpose of this memo is to request that City Council consider changing the code of ordinance for cemetery operations. The city currently operates Pineview, Northeastern, Battleboro, and Battle Park cemeteries. Pineview, Northeastern, and Battleboro still see active burials each year.

Cemetery staff are recommending the following changes:

- Section 6.12 – Cremations
  - Current: One (1) cremated body may be buried on a cemetery plot with the exception that the cremated remains of any two (2) members of the same family may be buried on a single plot. For the purposes of this section, family members shall be defined as wife, husband, mother, father daughter, son, sister, brother, grandmother, grandfather, granddaughter and grandson.

  - Recommended: One (1) cremated body may be buried on a cemetery plot with the exception that the cremated remains of any ***four (4) members of the same family may be buried on a single plot. (Two cremations at the head and two cremations at the foot)*** For the purposes of this section, family members shall be defined as wife, husband, mother, father daughter, son, sister, brother, grandmother, grandfather, granddaughter, and grandson.

Cremations have become more commonplace over the past two decades. In other municipal cemeteries, ordinance allows up to four cremations be buried in on plot. The dimension of a burial plot allows for this. Staff believe that this change is beneficial to families and to the city as family plots can accommodate more burials.

- Section 6.23 – Shrubs and Plants
  - Current: (a)No shrubs, plants or ornaments shall be planted upon any cemetery lot except as the same may be permitted by any applicable provision of this Code, state law or city ordinance, rule

or regulation.(b)No copings, curb fencing, hedges, grave mounds or borders of any kind shall be allowed on any cemetery lot.(c)The cemetery supervisor or his/her duly authorized agent shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from the cemetery as soon as in the judgment of the cemetery supervisor they become unsightly, dangerous, detrimental or diseased, or when they do not conform to the standards maintained for the cemeteries

- Recommended: (a)No shrubs, plants or ornaments shall be planted upon any cemetery lot except as the same may be permitted by any applicable provision of this Code, state law or city ordinance, rule or regulation.(b)No copings, curb fencing, hedges, grave mounds or borders of any kind shall be allowed on any cemetery lot.(c)The cemetery supervisor or his/her duly authorized agent shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from the cemetery as soon as in the judgment of the cemetery supervisor they become unsightly, dangerous, detrimental or diseased, or when they do not conform to the standards maintained for the cemeteries.
- ***Seasonal wreaths and flowers are permitted if attached to a headstone. Seasonal wreaths, flowers, and decorations are not permitted on foot markers.***

This has been the operating procedure for cemetery operations for many years. Said recommendation updates the ordinance to reflect the current practice. The policy allows for families to utilize seasonal wreaths and flowers while allowing for proper maintenance at all cemeteries.

If there are any questions or concerns, please contact me at 972-1153 or at joel.dunn@rockymountnc.gov.