

**ORDINANCE # 98-1-6**

**ARTICLE RENTAL HOUSING ORDINANCE**

**Sec. 1 Title.**

There are hereby established rules and regulations for the repair or elimination of unfit and/or unsafe rental housing conditions in the County of Buncombe, North Carolina, which shall be known as “The Rental Housing Ordinance of the County of Buncombe,” and will be referred to hereinafter as “Ordinance.”

**Sec. 2 Exercise of police powers: authority.**

The County Commissioners hereby find and declare that there exist in the County of Buncombe rental dwellings 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 County of Buncombe, and that a public necessity exists to exercise the police powers of the County pursuant to Article 6 of Chapter 153A of the General Statutes of North Carolina, as now or hereafter amended, to repair, close, or demolish such dwellings in accordance with the procedure herein provided.

**Sec. 3 Purpose.**

The purpose of this Ordinance is to remedy and prevent the decay and deterioration of places of human habitation by providing minimum requirements for the protection of the life, health, welfare, safety, and property of the general public and the owners and occupants of places of human habitation.

**Sec. 4 Scope.**

The provisions of this Ordinance are applicable to all existing rental dwellings and all rental dwellings hereafter constructed within the unincorporated areas of the County of Buncombe which are used or intended for use for human habitation. Demountable rental dwellings or demountable rental dwellings being moved and temporarily stored prior to relocation, when used or intended for use for human habitation within the county, shall be subject to the applicable provisions of this Ordinance.

**Sec. 5 Definitions.**

[For the purposes of this Ordinance, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:]

*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 or more families living independently of each other in dwelling units.

*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.

*Area:*

*Area* as applied to the dimensions of a dwelling shall mean the maximum horizontal projected area of the dwelling at grade.

**Area** as applied to the dimensions of a room, shall mean the total square footage of floor area between finished walls.

**Basement** means a story having a clear height of at least seven feet from finished floor to finished ceiling, the floor level of which is below finished grade but not less than four feet below the average finished grade, having floor and walls of approved construction.

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

**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."

**Ceiling height** means the clear vertical distance from the finished floor to the finished ceiling.

**County** means County of Buncombe, North Carolina.

**Enforcement officer** means any employee of the County whose assigned duties include the enforcement of one or more of the provisions of this Ordinance.

**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.

**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 Ordinance at a cost not in excess of 50 percent of its value, as determined by findings of the Director.

**Director** means the Director of Emergency Services or his/her designee.

**Dwelling** means any rental building or structure, or part thereof, used and occupied for human habitation or intended to be so used, apartment houses, boarding or rooming houses, hotels, motels and other transient places of habitation and dwelling unit.

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

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

**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 other recognized and lawful pest elimination method.

**Family** means one or more persons living together and having common housekeeping facilities.

**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.

**Habitable space** or **habitable room** means any room or enclosed floor space in a dwelling used or intended for use in 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.

***Inspect*** means the act of examining areas and parts of a dwelling to determine its compliance with the standards set out in this Ordinance.

***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 State Building Code Council.

***Occupant*** means any person over one year of age living, sleeping, cooking or eating in or having actual possession of a dwelling.

***Owner*** means the holder of the title in fee simple.

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

***Pier*** means a post, pole or column of masonry, concrete, steel or pressure-treated wood extending from a concrete or masonry footing to and supporting the building or portion thereof.

***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.

***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 dwelling.

***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.

***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.

***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.

***Unfit*** means not fit for human habitation.

***Unsafe*** means especially dangerous to life because of a dwelling's liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, dangerous wiring or heating system, inadequate means of egress, or other causes or conditions enumerated in section 8 of this ordinance.

***(c) Administrative liability.*** Except as may otherwise be provided by statute or local law or Ordinance, no officer, agent, or employee of the county charged with the enforcement of this Ordinance 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 Ordinance.

#### **Sec. 6 Agents.**

All owners who do not reside in the County of Buncombe but who own rental property in the unincorporated areas of the County of Buncombe must authorize a person residing in the County of Buncombe to serve as his or her agent for the purpose of accepting service of process under this article. The authorization shall be complete upon the owner providing a completed form supplied by the Director including the authorized agent's name, address and telephone number. The owner shall notify the director of any changes in the information not less than ten (10) days after such changes have occurred.

**Sec. 7 Administration.**

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

**(1) The Director of Emergency Services is hereby designated the public officer to exercise by and through his duly appointed agents, the powers described by this Ordinance.**

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

**(1) The enforcement officer shall have the authority to request advice and assistance from any public authority or agency he deems appropriate in performing his duties.**

**(2) The departments of the County and other public agencies may report in writing to the code enforcement officer any rental dwelling or abandoned rental dwelling they may encounter which is, may be, or is suspected of being unfit for human habitation dwelling or unsafe under the terms of this Ordinance.**

**(c) Administrative liability. Except as may otherwise be provided by statute or local law or Ordinance, no officer, agent, or employee of the county charged with the enforcement of this Ordinance 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 Ordinance shall be liable to 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.**

**Sec. 8 Unsafe Conditions.**

**(a) The enforcement officer shall determine that a dwelling is unsafe and represents a threat to life and property, if any of the following conditions exist:**

**(1) No operating heating facilities between November 1 and March 30 of any year;**

**(2) No potable water service;**

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

**(4) No electricity;**

**(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) Improperly operating or no sanitary facilities;**

**(7) Overloaded, non-isolateable electrical circuits or unsafe or exposed electrical wiring;**

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

**(9) Presence of uncontained flammable or combustible liquids or gases, poisonous solids, liquids or gases or life-or health-threatening depletion of oxygen;**

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

**(11) Chimney flues clogged;**

- (12) Immediate possibility of collapse;
  - (13) The primary means of exit or escape in the event of fire or other emergency is blocked or structurally unsafe;
  - (14) Occupancy of habitable space that does not meet below-grade occupancy standards;
  - (15) Internal accumulation of garbage;
  - (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) Multiple violations of the standards set forth.
- (b) The enforcement officer shall give priority enforcement to any dwelling that falls within the provisions of Section 8.

**Sec. 9 Minimum standards.**

Without excluding other ways and means of determining that a dwelling is unfit for human habitation, the enforcement officer shall apply the minimum standards set forth in section 9 of this Ordinance in determining whether a dwelling is unfit.

(1) *Facilities.*

a. *Sanitary.* Every dwelling shall be furnished with a potable water supply system. "Potable water supply" means 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 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.

b. *Location of sanitary facilities.* All required plumbing fixtures shall be located within the dwelling and be accessible to the occupants of the 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.

c. *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.

d. *Water heating.* 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 tap after the other, and not simultaneously) at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 116 degrees F. 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 Ordinance 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.

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

3. Provided, however, that the provision in subsection (1) d. 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.

*e. Heating.*

1. 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 all habitable rooms, and bathrooms in every dwelling regulated herein to a temperature of at least 68 degrees F (20 degrees C) at a distance three feet above the floor level, at an outside temperature of 14 degrees Fahrenheit. Each heating system shall have at least one 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.

2. 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 heaters having oxygen depletion sensors listed for residential use by UL, ETL, or other North Carolina recognized testing laboratory and installed in strict accordance with the manufacturer's instructions.

3. The following heating devices do not meet the requirements of subsection (1)e.2. of this section:

(i) Portable electric heating units; and

(ii) Unvented fuel-burning heaters.

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

*f. Chimneys.*

1. Chimney inspections shall be conducted by certified chimney sweeps.

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

(i) Flue liner intact;

(ii) Chimney mortar and bricks secure;

(iii) Flue unobstructed;

(iv) Fireplace firebricks intact;

(v) Stove piping placed and secured with clearances as follows;

X Minimum 12-inch brick clearance separation from combustibles; or

X Minimum nine-inch air separation for insulated listed stovepiping; or

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

X Minimum two-inch air separation for insulated listed stovepiping with one-inch air space between inner and outer chimney components; and as otherwise described in National Fire Protection Association's Standard 211, Chimneys, Fireplaces, Vents and Solid Fuel-Burning Appliances, 1992 edition; and

(vi) Heating appliance clearances maintained at 36 inches from combustible materials and/or surfaces, except that clearances may be reduced as provided in National Fire Protection Association's Standard 211, Chimneys, Fireplaces, Vents and Solid-Fuel Burning Appliances, 1992 edition.

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

g. *Cooking equipment.* All cooking equipment and facilities shall be installed in an approved manner and shall be maintained in safe working condition. 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.

h. Every dwelling shall be provided with a smoke detector listed by Underwriter's Laboratories, Inc. or other equivalent national testing laboratory on each level of the dwelling and in stairwells, hallways and other common areas of multiple-unit dwellings. Such detectors shall be installed in accordance with either National Fire Protection Association Standard 72, National Fire Alarm Code, Chapter 2 or the minimum protection designated in the manufacturer's instructions, which the owner of rental property shall retain or provide as proof of compliance.

i. *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 to be of sufficient size to be visible from the nearest public street but not less than two inches in height. If the dwelling is not visible from the nearest public street, a sign or standard bearing the address number shall also be placed on the principle public street access point to the dwelling, such number to meet the standards set forth herein.

*(2) Light and ventilation.*

(a) *Windows.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight percent of the floor area of such room. Whenever walls or other portions of structures face window of any such room and such light-obstruction structures are located less than three 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 15 percent of the total floor area of such room.

b. *Ventilation.*

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

2. 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.

c. *Bathrooms.*

1. 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.

d. *Lighting in halls and stairways.*

1. Every hall and stairway of every dwelling, shall be lighted, including exterior stairways and stairways in halls and public space.

**(3) Electrical systems.**

**a. Electrical service.** Adequate electric service must be provided to the dwelling. “Adequate” means a minimum of 60 ampere service with no more than five two-wire branch circuits connected and a total connected load of less than ten kilowatts. If a service has six or more two-wire branch circuits, 100 ampere service at a minimum must be provided. If the connected electrical load exceeds the capacity of a 100 ampere service, a service of sufficient ampere capacity to safely bear the connected electrical load shall be furnished. “Edison base” fuses shall not be permitted as components of any electrical service, and no more than one 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 purposes of this Ordinance.

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

**b. Lights and outlets.**

1. Every habitable room or space shall contain at least two separate and remote duplex receptacle outlets.
2. Bedrooms shall have, in addition, at least one wall switch controlled lighting outlet or ceiling light fixture or permanent fixture controlled by a pull chain.
3. In kitchens, three 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 linear feet of counter top, two of the three required outlets may be within the counter top space.
4. Every hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one ceiling - mounted or wall - mounted fixture outlet. For purposes of this section a laundry closet shall not be considered a laundry room.
5. 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 receptacle outlet. Any new or replacement bathroom receptacle outlet shall have ground fault circuit interrupter protection.
6. 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 outlet plates or failure of circuit - tester check shall be evidence of an unsafe electrical system.

**(4) Exterior and interior.**

**a. 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 (“reasonably dry” means no mud, standing water, running water or evidence of same). Mobile homes shall be set up and secured as required by the State Building Code’s Regulations for Manufactured/Mobile Homes.

**b. Exterior walls.**

1. Every exterior wall shall be reasonably weather tight, (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 wood or other organic building materials from weather damage, repair of cracks or holes



exceeding one - quarter (1/4) 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.

2. Existing skirting shall be maintained free from broken or missing sections, pieces or cross members which comprise the insulation characteristics of the skirting. Skirting shall be securely attached and sized from the ground to the lower outside perimeter of the structure. If skirting is not provided, or if existing skirting is removed, water lines and drain lines shall be insulated to prevent freezing.

3. Replacement or new skirting 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 heating or other mechanical equipment, via inside or outside, shall be furnished.

**c. Roofs.**

1. 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:

(i) Missing shingles

(ii) Flashing (s) missing;

(iii) Roof deflection deeper than 1/6 of the depth of the rafter and/or rafters cracked.

(iv) Damage to ceilings (ceiling plaster loose or falling, brown spots, etc.), sheet rock hanging, etc. in rooms below roof; or

(v) Fire damage.

2. No more than three layers of roofing materials (shingles, shakes, roofing) shall be permitted without certification by an architect or engineer registered in North Carolina that the roof will safely support all required live and dead loads pursuant to requirements of the North Carolina State Building Code.

**d. Attics.** All attics shall be ventilated.

**e. Means of egress.** In multi-family houses having two or more dwelling units above the first story, every dwelling unit above the first story shall have access to at least two exit ways. One common exit is permitted provided that all of the following conditions are met:

1. Maximum distance of travel to reach the exit or stairs from the entrance door to any dwelling unit shall not exceed 30 feet.

2. Maximum number of dwelling units served by the exit shall not exceed four per floor.

3. Maximum gross area of the dwelling units shall not exceed 3,500 square feet per floor.

4. Maximum building height shall be one story above the level of exit discharge.

**f. Stairs, porches and appurtenances.**

1. Every inside and outside stair, porch and any appurtenance 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 accident

hazards. Risers shall be reasonably uniform in height. Stair coverings shall be securely mounted and shall not interfere with safe use of the stairs.

**g. Protective railings.** Every porch, terrace or entrance platform 30 inches above adjacent finish grade shall be equipped with railings or guards not less than 36 inches high. Handrails, continuous on all open sides of stairs exceeding four risers, leading to a platform, porch or terrace, shall be installed at least 30 inches high. Interior stairs exceeding four risers, open on both sides, including basement stairs, shall have a continuous handrail on one side. Stairs open on one side exceeding four risers shall have a continuous handrail on the open side.

Stairs exceeding four risers, enclosed on both sides, shall have a minimum of one continuous handrail. When exterior stairwell step flight has total rise of 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.

**h. Windows and window assemblies.**

1. Each window shall be weather tight, watertight, and rodent proof, and shall be kept in sound working condition and 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.

2. Each window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes. Wood, cardboard or polyethylene or other plastic film are not approved substitutes. A window pane with a crack or hole must be replaced or the crack or hole sealed with clear silicone seal. A broken window (pieces missing or exposed glass edge) must be replaced.

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

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

**i. Exterior doors.**

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

2. Every exterior door to a dwelling shall be provided with properly installed hardware that is maintained to insure 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 in all situations 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).

**j. Exterior door frames.**

1. Exterior door frames 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 door frame, that door frame does not meet this standard.

2. 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 door frame, that door frame does not meet this standard.

k. *Screens.* In order to provide for safe ventilation and 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 or more feet above finished grade below the window. On floors below eight feet above finished grade, screens are required on operable windows required by section 9 (2) of this Ordinance. “Good repair” means screens providing a continuous barrier to insects.

l. *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 surfaces is not required to be treated. All siding shall be weather-resistant and water-tight. All masonry joints shall be sufficiently tuckpointed to insure water and air tightness. “Sufficiently tuckpointed” means that mortar shall not be removable by finger pressure.

m. *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. No rotted, fire damaged, or loose flooring 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 clean and sanitary condition.

n. *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 under girders, at walls or at other primary support points, but may be used for indirect support only.

o. *Fire-stopping and draft-stopping.* Fire-stopping 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.

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

p. *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.

q. *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.

r. *Water closet, lavatory and bath facilities for boarding houses.* At least one 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 rooms within a rooming house whenever 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.

**(5) Space requirements.**

**a. Required space.** Every dwelling shall contain at least 150 square feet of floor space for the first occupant thereof and at least 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.

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

**c. Ceiling height.** Habitable rooms other than kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than seven feet. Hallways, corridors, bathrooms, water closet rooms and kitchens shall have a ceiling height of not less than seven feet 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 the room area. No portion of the room measuring less than five feet from the finished floor to the finished ceiling shall be included in any computation of the minimum room area.

**d. Occupancy below grade.** No basement or cellar space shall be used as a habitable room or dwelling unless:

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

**2.** The total window area (or window well area) is equal to at least the minimum window and ventilation areas described in section 9 (2) of this Ordinance, except that in non-sleeping rooms, mechanical ventilation and electrical light may be used in place of window ventilation and light; and

**3.** 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.

**(6) Sanitation requirements.** Every owner of a dwelling or rental lot shall provide a clean, safe and sanitary dwelling 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 Ordinance.

**(7) Extermination.** Every owner of a multi-dwelling building or boarding house 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 the enforcement officer; such extermination shall be conducted by a licensed exterminator; the owner shall then provide the enforcement officer with a statement of action from the licensed exterminator. Monthly extermination treatment is the maximum that an owner shall be required to provide.

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

**Sec. 10 Alternate means.**

**(a)** The Director may authorize an alternate means of meeting the requirements of this Ordinance only under the following circumstances as established by owner(s):

**(1) The condition for which the alternate means is sought is not one of the conditions set forth in section 8 of this Ordinance.**

**(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) There exists a demonstrable alternate means of meeting the intent of this Ordinance.**

**(b) In the event that the enforcement officer withholds approval of one or more plumbing, electrical, mechanical, structural or fire safety components, the enforcement officer 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 enforcement officer in writing.**

#### **Sec. 11 Duties of tenants.**

**This Ordinance is not intended to interfere with or abrogate the duties imposed on tenants of rental property by North Carolina General Statutes, Section 42-43, or with lawful written agreements between property owners and tenants.**

#### **Sec. 12 Responsibility of owner.**

**The owner remains responsible for complying with the provisions of this Ordinance, even though:**

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

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

**(3) In cases where part of a dwelling unit or dwelling is owned by an association of owners and the balance of such dwelling unit or dwelling is owned by an individual owner, responsibility for compliance lies with the owner of that part of the dwelling unit or dwelling not in compliance with the Ordinance.**

#### **Sec. 13 Powers of Director.**

##### **(a) *General.***

**(1) The Director shall have such powers as may be necessary, lawful, or convenient to carry out and effectuate the purpose and provisions of this Ordinance, including (without limiting the generality of the forgoing) the following powers:**

**a. To investigate the dwelling conditions in the unincorporated areas of the County in order to determine which dwellings therein are unfit for human habitation.**

**b. To administer oaths, affirmations, examine witnesses and receive evidence.**

**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.**

**d. To appoint and fix the duties, as provided in this Ordinance, of such officers, agents, and employees as he deems necessary to carry out the purpose of this Ordinance.**

##### **(b) *Inspections.***

(1) It shall be the duty of the enforcement officer to examine the dwellings located in the unincorporated areas of the county for the purpose of determining the fitness of dwellings for human habitation, and for the enforcement and administration of this Ordinance upon receiving a complaint.

In exercising this power, the enforcement officer shall have a right to enter on any premises within the unincorporated areas of the County at all reasonable hours (between 9:00 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 enforcement officer shall have the right to inspect pursuant to Article 4A of Chapter 15 of the North Carolina General Statutes, as amended.

(2) If, during the course of an inspection, the enforcement officer finds evidence of construction in progress that would require a permit (or permits) pursuant to N.C. General Statute Sec. 153A-357, the owner shall produce evidence that such permit(s) have been obtained prior to issuance of any housing certificate.

(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 inspection. The enforcement officer shall not be responsible for failure to detect violations of this Ordinance when such violations are concealed behind, under or above walls, floors, ceilings, or other fixed components of the dwelling.

(c) *Reports.* Inspection findings will be recorded on standardized correction order forms and provided to the owner. Such standardized forms shall include specific references to sections of this Ordinance when any violations are recorded. The reports shall contain notice of deficiencies under this Ordinance and inform the owner of any deadline to remedy the deficiencies. Within five 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 Ordinance that are identified in the order. If any of the deficiencies enumerated in such report are among those set forth in section 8 of this Ordinance, the owner(s) shall advise all occupants of the building of such deficiencies within five days of the owner's receipt of such report.

#### Sec. 14 Enforcement.

##### (a) *Issuance of complaint.*

(1) Whenever a petition or complaint is filed with the enforcement officer by a public authority charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the enforcement officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties of interest in such dwellings a complaint stating the charges of violations of this Ordinance, listing the Ordinance deficiencies, and containing a notice that a hearing will be held before the Director at a place within the County of Buncombe at a time fixed not less than ten days nor more than 30 days after the serving of said complaint. The notice shall also notify the owner and parties of 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 Director. All complaints and notices of hearing issued by the enforcement officer shall be filed in a notice of lis pendens in the Office of the Clerk of Superior Court for Buncombe County.

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

(b) *Findings of fact and order.* If, after such notice and hearing, the Director determines that the dwelling under consideration is unsafe or unfit for human habitation, according to the standards of this Ordinance, 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 Director shall be filed in a notice of lis

pendens in the Office of the Clerk of Superior Court of Buncombe County.

**(1) *Deteriorated.*** If the dwelling is found to be deteriorated as defined in this Ordinance, the enforcement officer shall require the owner to repair, alter, or improve such dwelling so as to bring it into compliance with this Ordinance within a period not to exceed 120 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 enforcement officer finds that there is imminent danger to life or other property, he may order that corrective action to be taken in such lesser period as may be necessary.

**(2) *Dilapidated.*** If the dwelling is found to be dilapidated as defined in this Ordinance, the enforcement officer may require the owner to remove or demolish such dwelling within a period not to exceed 90 days of the service of the order. Where the enforcement officer finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be necessary. Such order will not bar the owners from making such repairs as are necessary to bring the dwelling into compliance with this Ordinance within the corrective action period imposed by such order.

**(3) *Demolition of dwellings.*** If the enforcement officer has issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in section 14 (b)(1), and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the order, then if the Director shall 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 County in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the Director may, after the expiration of such one year period, enter and serve on the owner an order setting forth the following:

a. That the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding 50 percent of then current value of the dwelling, the order shall require that the owner either repair or demolish and remove the dwelling within 90 days; or

b. That the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding 50 percent of the then current value of the dwelling, the order shall require the owner to demolish and remove the dwelling with 90 days.

c. That the order shall be recorded in the Office of the Register of Deeds for Buncombe County and indexed in the name of the property owner in the grantor index. That failure to comply with the order shall authorize the Director to effectuate the purpose of the order.

**(4) *Historic district.*** Notwithstanding any other provision of law, if the dwelling is located in a historic district of the county 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. Gen. Stat. Sec. 160A-400.1 and 160A-400.2.

**(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 vacate and close the dwelling, the Director may cause the dwelling to be repaired, altered, or improved, or to be vacated and closed; the Director 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.”

Occupation of a dwelling so posted shall constitute a misdemeanor.

(2) If the owner fails to comply with an order to remove or demolish the dwelling, the Director may proceed with equitable enforcement of this ordinance pursuant to § 14(g).

(3) If any occupant fails to comply with an order to vacate a dwelling, the Director may file a civil action in the name of the county to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such a dwelling. The Clerk of the Buncombe County Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in N.C. Gen. Stat. Sec. 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 Director produces a certified copy of an order entered pursuant to section (14) (3) of this ordinance, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under N.C. Gen. Stat. Sec. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in N.C. Gen. Stat. Sec. 7A-228, and the execution of such judgment may be stayed as provided in N.C. Gen. Stat. Sec. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this section unless such occupant has been served with notice of the order at least 30 days before the filing of the summary ejectment proceeding.

(d) *Displacement.* In enforcing the provisions of this Ordinance, the Director shall make every effort to prevent unnecessary displacement of occupants.

(e) *Determination of value.* The enforcement officer is hereby authorized to fix the reasonable value of any dwelling or abandoned dwelling for the purpose of this Ordinance at the amount set forth in the Buncombe County’s property tax listing (as adjusted by the Buncombe 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 as to the reasonable value of the dwelling prepared by a North Carolina state-certified residential appraiser within 15 days after receipt of an order from the Director. Such written appraisal shall be binding and conclusive for purpose of this Ordinance.

(f) *Service of complaints and orders.* Complaints and orders issued by the enforcement officer pursuant to this Ordinance shall be served upon persons either personally or by registered or certified mail, and, in conjunction therewith, may be served by regular mail. When the manner of service is by regular mail in conjunction with registered or certified mail, and the registered or certified mail is returned, but the regular mail is not returned by the post office within ten days after mailing, service shall be deemed sufficient. The person mailing such complaint or order by regular mail shall certify that fact and the date thereof, and such certificate shall be deemed conclusive in the absence of fraud. If the identities of any owners or the whereabouts of such persons are unknown and the same cannot be ascertained by the enforcement officer, in the exercise of reasonable diligence, and the enforcement officer makes an affidavit to that effect, then the serving of such complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the County at least once no later than the time at which personal service would be required under this article. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected. Failure on the part of any owner or party in interest to receive or have served upon him any complaint, notice, or order herein



provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person, firm or corporation.

(g) *Equitable enforcement.* In case any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Ordinance or any order or decision of the Director or Board made pursuant to this Ordinance, the Director may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alternation, or use, to restrain, correct, or abate such violation and to prevent the occupancy of the dwelling.

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

(i) *Civil enforcement.* An owner who fails to comply with a violation notice of correction order or finding of fact and order to repair or to improve, vacate, close or demolish any dwelling determined unfit for human habitation pursuant to the provisions contained in this Ordinance, or who permits the occupancy or reoccupancy of an unsafe or unfit dwelling in violation of this Ordinance shall be subject to civil penalty of \$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 Ordinance. In each instance, a penalty of \$10.00 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 days after being notified of the amount due, the county 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.

#### Sec. 15 Appeal procedures.

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

(b) *To Appeals Board.* Appeals on the record may be taken by an owner or other party in the interest from any decision or order of the Director to an Appeals Board consisting of five members appointed by the Buncombe County Board of County Commissioners.

(1) An appeal from any decision or order of the Director may be taken by any person aggrieved thereby. Such appeal shall be taken within ten days from the service of the order and shall be taken by filing with the Director and with the board a notice of appeal which shall specify the grounds upon which the appeals is based. Upon the filing of any notice of appeal, the Director 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 Director 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 Director 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 Director 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 this 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 enforcement of the Ordinance. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the Appeals Board or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause show. To this end the board shall have all the powers of the officer from whom the appeal is taken.

(2) The board shall fix a reasonable time for the hearing of appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse, affirm, in whole or in part, or may modify the decision or order appealed. The concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of

the Director. The Board shall have 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 Ordinance, to adapt the application of the Ordinance to the necessities of the case to the end that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(3) Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted in Buncombe County Superior Court within 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 appealing party either by hand delivery or by any method authorized by the North Carolina Rules of Civil Procedure.

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

**Sec. 16 Other unlawful acts.**

(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 Ordinance, unless the enforcement officer consents in writing to such action.

**Sec. 17 Invalidity.**

Notwithstanding any other evidence of intent, it is hereby declared to be the controlling intent of the Commissioners of the County of Buncombe that if any provision of this Ordinance or the application thereof to any person, firm, or corporation or circumstances is held invalid, the remainder of this Ordinance 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.

Approved on first reading the 20th day of January, 1998.

Effective January 21, 1998.

ATTEST

**BOARD OF COMMISSIONERS FOR THE  
COUNTY OF BUNCOMBE**

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**TOM SOBOL,  
CHAIRMAN**

**KATHY HUGHES,  
CLERK TO THE BOARD**

**APPROVED AS TO FORM**

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**JOE A. CONNOLLY, COUNTY ATTORNEY**