



# MINIMUM HOUSING ORDINANCE

**Onslow County, North Carolina**

Adoption Date: September 20, 2021

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# ARTICLE 1 – GENERAL PROVISIONS

## SECTION 1.1: PURPOSE

- A. The purpose of this Ordinance is to protect the health, safety, and welfare of Onslow County residents through establishing minimum standards and requirements for the initial and continued occupancy of places of human habitation.
- B. This Ordinance does not replace or modify requirements otherwise established by North Carolina Building Code, the Onslow County Zoning Ordinance, any other applicable County ordinance for the construction, repair, alteration, or use of buildings, equipment, or facilities except as provided within this Ordinance.

## SECTION 1.2: AUTHORITY

- A. This Ordinance is adopted pursuant to the authority vested in Onslow County contained in Article 12 (Minimum Housing Codes) of Chapter 160D (Local Planning and Development Regulations) and Article 1 (Felonies and Misdemeanors) of Chapter 14 (Criminal Law) of the North Carolina General Statutes.

## SECTION 1.3: JURISDICTION

- A. The provisions of this Ordinance are applicable to all places of human habitation within the planning jurisdiction of Onslow County, as well as any portion of a planning jurisdiction of any municipality where an interlocal agreement is established in accordance with NCGS 160D-202(b) and 160D-202(b) (Municipal Extraterritorial Jurisdiction), without regard to when they were constructed, altered, repaired, or improved pursuant to NCGS 160D-1201 (Authorization).

## SECTION 1.4: REPEAL OF EXISTING MINIMUM HOUSING ORDINANCE

- A. The Onslow County Minimum Housing Ordinance adopted May 18, 2016 is repealed.
- B. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, an existing violation of any prior regulations.

## SECTION 1.5: DEFINITIONS

- A. When used in this Ordinance, the following terms shall have the meanings ascribed to them in this Article, except where context clearly indicates a different meaning:

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

**Alteration:** A change in or rearrangement of the structural components.

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

**Basement:** A story with forty (40) percent or more of its cubical content below finish grade.

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

**Close:** Means secured in such a way that unauthorized persons cannot gain entry into the building.

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

**Demolish:** The demolition and removal of the entire building leaving the property free and clear of any debris and without holes or pockets which may retain water.

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

**Deteriorated:** A dwelling that is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this Ordinance at a cost not in excess of fifty percent (50%) of its value as determined by findings of the Public Officer or his/her designee.

**Dilapidated:** A dwelling that is unfit for human habitation and cannot be repaired, altered, or improved to comply with all of the minimum standards established by this Ordinance at a cost not in excess of fifty percent (50%) of its value as determined by findings of the Public Officer or his/her designee.

**Dwelling:** Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation. A Recreational Vehicle (RV) shall not be considered a dwelling and, therefore, not subject to the Minimum Housing Ordinance standards and inspections.

**Dwelling Unit:** A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Dwelling, Multi-family Residential:** Shall be considered as apartments, condominiums, townhouses, and/or detached single family rental developments. See “Apartments,” “Condominiums,” “Townhouses” and/or “Detached Single Family Rental Developments.”

**Egress:** The clear and unobstructed way by which a person may leave a building.

**Extermination:** The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the housing inspector.

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

**Habitable Room:** A room or enclosed floor space occupied by one (1) or more persons used or intended to be used for living, sleeping, cooking, or eating purposes. It does not include bathrooms, water closet compartments, laundries, pantries, foyers, communicating corridors, closets, or storage spaces. "See Place of Habitation."

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

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

**Occupant:** Any person living, sleeping, cooking, or eating in, or having actual possession of a place of habitation.

**Operator:** Any person who has charge, care, or control of a building or part thereof in which there are places of habitation.

**Owner:** Any person, whether alone or jointly with others, who is a holder of record of any legal or equitable estate in the premises, whether in possession or not.

**Parties of Interest:** All individuals, associations, partnerships, corporations, and any others who have an interest of record in a place of habitation and any who are in possession or control thereof as an agent of the owner, executor, executrix, administrator, administratrix, trustee, and/or guardian of the estate of the owner.

**Person:** Any individual, group of individuals, trustee, executor, receiver, assignee, other fiduciary, corporation, company, business, firm, club, proprietorship, partnership, association, organization, joint stock association, joint venture, governmental entity, legal entity, or other entity operating as a unit or a similar representative of any of these.

**Place of Habitation:** It shall include all dwellings, dwelling units, habitable rooms, multi-family dwellings, and any other structure used for human habitation, which is occupied under a lease or holds a legal tenancy.

**Plumbing:** It shall include the water supply system, the sanitary and storm drainage system, the vent system, the fixtures and traps, and shall include their respective connections, devices, appliances, and appurtenances within the property lines of the premises.

**Public Officer:** An inspector of the County who is authorized by this Ordinance to exercise the powers prescribed herein.

**Premises:** A lot, plot, or parcel of land including the buildings or structures thereon.

**Public Authority:** Any officer who is in charge of any department or branch of the government of Onslow County or in the State of North Carolina who is in charge of enforcement of standards relating to health, human services, fire, building regulations, or other activities concerning dwellings in the County.

**Public Space:** The space within any place of habitation which is open to use by the general public.

**Refuse:** All accumulations of solid waste consisting of, without limitation, garbage, household trash, or business trash as either defined herein or in the Onslow County Solid Waste Management Ordinance.

**Substandard:** Any condition existing in any place of habitation which does not meet the standards of fitness of this Ordinance.

**Temporary Housing:** Any tent, trailer, or other structure which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premise for more than thirty (30) consecutive days.

**Tenant:** Any person who alone, jointly, or with three or more individuals occupy a place of habitation under a lease or holds a legal tenancy in a building.

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

**Unfit for Human Habitation:** The conditions that exist in a place of habitation which violates or does not comply with one (1) or more of the minimum standards of fitness, or with one or more of the responsibilities of owners and occupants established by this Ordinance.

## **SECTION 1.6: CONFLICT WITH OTHER PROVISIONS**

- A. In the event any provision, standard, or requirement of this Ordinance is found to be in conflict with another provision of this or any other Onslow County ordinance, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of Onslow County shall prevail.

## **SECTION 1.7: PUBLIC OFFICER**

- A. The Director of the Onslow County Planning and Development Department or his/her designee is hereby designated the Public Officer to exercise the powers herein prescribed. The Public Officer shall have such powers as may be necessary to effectuate the purpose and provisions of this Ordinance which shall include but are not limited to the following:
  - 1. Inspect and investigate Onslow County places of human habitation to determine compliance with the standards of fitness prescribed herein and to determine which dwellings therein are unfit for human habitation;
  - 2. Administer oaths and affirmations, examine witnesses, and receive evidence during hearings;
  - 3. Enter buildings and properties for the purpose of conducting inspections and investigations in a manner that will do the least possible inconvenience to the persons in possession;
  - 4. Appoint and fix duties of such officers, agents, and employees as he/she deems necessary to carry out the purposes of this Ordinance; and
  - 5. Delegate any of his/her functions and powers under this Ordinance to designated officers, agents, and/or employees.

## **SECTION 1.8: HOUSING APPEALS BOARD**

- A. In accordance with the authority granted under North Carolina General Statute 160D-305 (Housing Appeals Board), the Onslow County Board of Adjustment shall hear all appeals of any final and binding order, requirement, or determination made by the Public Officer or his/her designee.

## **SECTION 1.9: ADMINISTRATIVE LIABILITY**

- A. To the extent allowed by applicable law, no officer, agent, or employee of Onslow County, who is 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 Ordinance.



# **ARTICLE 2 – MINIMUM RESPONSIBILITIES, REQUIREMENTS, AND STANDARDS**

## **SECTION 2.1: COMPLIANCE**

- A. Places used for human habitation or held out for such use shall comply with all of the minimum standards and requirements of this Ordinance.
- B. All owners, operators, and occupants shall comply with the requirements of this Ordinance to maintain these standards.
- C. No person shall occupy or allow occupancy of a place of habitation that violates this Ordinance.

## **SECTION 2.2: RESPONSIBILITIES OF OWNERS AND OCCUPANTS**

- A. The general responsibilities of owners and occupants of places of habitation shall include the following but are not limited to:
  - 1. Owners shall be responsible for maintaining, in a reasonably clean and sanitary condition, the shared or public spaces of the place of habitation and premises. Occupants shall be responsible for maintaining, in a reasonably clean and sanitary condition, the part of the place of habitation and premises which he/she occupies and controls.
  - 2. Occupants shall be responsible for the extermination of any insects, rodents, or other pests infesting the place of habitation; however, owners shall be responsible for extermination if the place of habitation is not reasonably impervious to pests.
  - 3. Occupants shall be responsible for disposing of refuse and/or garbage in a clean and sanitary manner by placing it in adequate facilities for such disposal.
  - 4. Owners shall be responsible for providing adequate, operable plumbing facilities, as required herein, including an adequate water heater and for maintaining such facilities in efficient operating condition. Occupants shall be responsible for exercising reasonable care in the use of such facilities and for maintaining them in a clean and sanitary condition.
  - 5. Owners shall be responsible for providing adequate and operable heating facilities and appliances, as required herein, and for maintaining them in efficient operating condition. Occupants shall be responsible for exercising reasonable care in the use of such facilities and appliances.
  - 6. Owners shall ensure that the place of habitation remains closed and secured when not occupied.
  - 7. Occupants shall give owners, agents, and/or employees access to any part of the place of habitation for the purpose of making repairs or alterations to bring the place of habitation into compliance with this Ordinance or any other lawful order.
  - 8. Owners shall be ultimately responsible for violations of this Ordinance irrespective of any agreement between the owner and the occupants.

## **SECTION 2.3: STRUCTURAL STANDARDS**

- A. Walls, floors, and roofs shall not have any rotted, deteriorated, or damaged supporting members that compromise their structural integrity resulting in an unsafe condition.
- B. Foundations, foundation walls, piers, or other foundation supports shall not be deteriorated or damaged to a point that compromises their supporting strength.

- C. Stairs, porches, and any appurtenance thereto shall be safe to use and capable of supporting a normal load.
- D. Every place of habitation shall be provided with adequate means for egress in the case of fire or panic.
- E. The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be reasonably weatherproof and watertight.
- F. There shall be no chimney or parts thereof which are defective, deteriorated, or in danger of falling, or in such condition or location as to constitute a fire hazard.
- G. There shall be no use of exposed ground as a floor. Wood floors shall not be placed directly on the exposed ground.

## **SECTION 2.4: BASIC EQUIPMENT AND FACILITIES STANDARDS**

### **A. PLUMBING SYSTEM**

- 1. Each dwelling unit shall be connected to a potable water supply and public sewer, or an approved and permitted sewage disposal system.
- 2. All plumbing fixtures shall be maintained in an operable condition.
- 3. Each dwelling unit shall contain a kitchen sink with an adequate supply of hot and cold water.
- 4. Each dwelling unit shall contain bathroom facilities to include a toilet, a sink, and a tub or shower with an adequate supply of hot and cold water. The tub or shower and toilet shall be located in a room or rooms affording privacy to the user.

### **B. HEATING SYSTEM**

- 1. Each dwelling unit shall have a central or electric heating system or sufficient chimneys, flues, or gas vents with a heating appliance connected, so as to heat all habitable rooms to a minimum temperature of sixty-eight (68) degrees Fahrenheit measured three (3) feet above the floor with an outside temperature of 20 degrees Fahrenheit.
- 2. Portable heaters are not acceptable as a permanent source of heat.

### **C. ELECTRICAL SYSTEMS**

- 1. Every dwelling unit shall be wired for electric lights and convenience receptacles.
- 2. All fixtures, receptacles, equipment, and wiring shall be safe and maintained in a state of good repair.
- 3. There shall be installed in every bathroom and laundry room at least one ceiling or wall type electric light fixture.
- 4. Every public hall and stairway in multi-family dwellings shall be adequately illuminated by electric lights at all times when natural daylight is not sufficient.
- 5. Smoke alarms shall be provided which are operable and in good repair. The landlord is responsible to provide at least one (1) carbon monoxide alarm when there exists an attached garage or fossil-fuel burning heater, fireplace, and/or appliance. Unless the landlord and tenant have a written agreement to the contrary, the landlord shall place new batteries in the alarms at the beginning of each tenancy and the tenant shall replace the batteries as needed during tenancy, except where the alarm is a tamper resistant ten (10) year lithium battery smoke alarm. The landlord is responsible to repair or replace alarms within fifteen (15) days of receipt of written notification by the tenant of needed repair or replacement.

#### D. ROOM SIZES

1. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the North Carolina Building Code at the time the dwelling was constructed.

#### E. VENTILATION

1. Every habitable room and bathroom shall have a permanent means of providing air circulation or air exchange.
2. Except where provided by mechanical ventilation, every habitable room shall have an operable window, the size of which shall be not less than eight percent (8%) of the floor area of such room.
3. Every bathroom shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

#### F. WINDOW SCREENS

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

#### G. INFESTATION

1. Every occupant of a dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises. Every occupant of a dwelling unit within a multi-family dwelling shall be responsible for such extermination whenever his/her dwelling unit is the only one (1) infested.
2. Extermination shall be responsibility of the owner whenever infestation exists in one of the following circumstances:
  - a. Two (2) or more dwelling units in any multi-family dwelling;
  - b. In the shared parts of any dwelling within a multi-family dwelling unit; or
  - c. Whenever infestation is caused by failure of the owner to maintain a dwelling in a reasonably rodent and insect proof condition.

#### H. RECEPTACLES AND CONTAINER REQUIREMENT

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

#### I. MOLD

1. Mold is not addressed through the Onslow County's Minimum Housing Responsibilities, Requirements, and/or Standards.

## **ARTICLE 3 – ENFORCEMENT**

### **SECTION 3.1: PRELIMINARY INVESTIGATION**

- A. The Public Officer shall conduct an investigation of a place of habitation and associated property whenever:
  - 1. A petition is filed with the Public Officer by a public authority or by at least five (5) residents of Onslow County who are at least eighteen (18) years of age in accordance with NCGS 160D-1203(2), or
  - 2. Whenever it appears to the Public Officer upon inspection that any place of habitation is in violation of this Ordinance.
- B. For the purpose of conducting a preliminary investigation or inspection, the Public Officer, upon presentation of proper credentials, is hereby authorized to enter, examine, and survey at all reasonable hours, all places of habitation and the premises associated therewith.
  - 1. When permission to inspect a place of habitation or its premises is denied, the Public Officer may obtain an administrative warrant.

### **SECTION 3.2: COMPLAINT AND NOTICE OF ADMINISTRATIVE HEARING**

- A. If the Public Officer's preliminary investigation discloses violations of this Ordinance, he /she shall issue a complaint and cause it to be served upon the property owner and parties of interest in the place of habitation.
- B. The complaint will state the basis for the charges and contain a notice that a hearing will be held before the Public Officer at a place stated in the notice, within ten (10) to thirty (30) days after service in accordance with NCGS 160D-1203(2).
- C. Notice of the hearing shall also be given to at least one (1) of the five (5) or more persons who signed the initial petition.
- D. The owner or party of interest shall have the right to the following:
  - 1. Either correct the violation;
  - 2. File an answer to the complaint; and
  - 3. To appear in person, or otherwise, and give testimony at the hearing.
- E. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in a hearing before the Public Officer.

### **SECTION 3.3: ISSUANCE OF ORDER**

#### **A. GENERALLY**

- 1. After the notice and hearing provided for in Section 3.2, the Public Officer shall issue a written determination which will include findings of fact supporting whether the place of habitation is unsafe or unfit for occupancy and whether it is deteriorated or dilapidated.

#### **B. DETERIORATION**

- 1. If the Public Officer finds deterioration, he/she shall issue and cause to be served upon the owner and parties of interest an order to repair, alter, and improve the place of habitation to comply with the standards of fitness established by this Ordinance.
- 2. It shall be within a specified time period not to exceed ninety (90) days.

3. The order may require the owner to vacate and close such place of habitation while occupancy would present a significant threat of bodily harm.
4. The Public Officer may grant extensions of up to one hundred and eighty (180) days if good cause is shown.

#### C. DILAPIDATION

1. If the Public Officer finds dilapidation, he/she shall issue and cause to be served upon the owner and parties in interest an order to vacate and close the place of habitation.
2. The order shall require the place of habitation to be removed or demolished within a specified time period not to exceed ninety (90) days.
3. The Public Officer may grant extensions of up to ninety (90) days for good cause shown.

#### D. AFFORDABLE HOUSING PROVISION

1. If the notice of order is for dilapidation, the notice of 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, in accordance with North Carolina General Statute NCGS 160D-1203(9) (Additional Notices to Affordable Housing Organizations).
2. A minimum period of forty-five (45) days from the mailing of such notices shall be given before the removal or demolition by action of the Public Officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing.
3. The Public Officer shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud.
4. 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 days before causing removal or demolition.

### **SECTION 3.4: FAILURE TO COMPLY WITH ORDER**

#### A. GENERAL PROVISIONS

1. The duties of the Public Officer set forth in Subsections B, C, and D of this Section shall not be exercised until the Board of Commissioners shall have by ordinance ordered the Public Officer to proceed to effectuate the purpose of this Ordinance with respect to the particular property or properties that the Public Officer shall have found to be unfit for human habitation.
2. The property or properties shall be described in the ordinance.
3. This ordinance shall be recorded in the Onslow County Office of the Register of Deeds and shall be indexed in the name of the property owner in the grantor index.

#### B. REPAIR, CLOSING, AND POSTING

1. If the owner fails to comply with an order to repair, alter, improve, or vacate and close the dwelling, then the Public Officer may cause the dwelling to be repaired, altered, improved, or vacate and close the dwelling.
2. The Public Officer may cause to be posted on the main entrance of any dwelling so closed with a placard with the following words: "This building is unfit for

human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.”

3. Occupation of a building so posted shall constitute a Class One (1) misdemeanor.

#### C. DEMOLITION

1. If the owner fails to comply with an order to remove or demolish the dwelling, the Public Officer may cause such dwelling to be removed or demolished.
2. No ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the standards of this Ordinance.

#### D. ABANDONMENT OF INTENT TO REPAIR

1. If the dwelling has been vacated and closed for a period of one (1) year pursuant to an ordinance adopted pursuant to Subsection C (Repair, Closing, and Posting) or after the Public Officer issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this Ordinance, then the Board of Commissioners pursuant to NCGS 160D-1203(6) (Abandonment of Intent to Repair) may find the following:
  - a. 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;
  - b. That the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that the dwelling would:
    - i. Continue to deteriorate,
    - ii. Would create a fire and safety hazard,
    - iii. Would be a threat to children and vagrants,
    - iv. Would attract persons intent on criminal activities,
    - v. Would cause or contribute to blight and the deterioration of property values in the area, and
    - vi. Would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State.
2. Then in such circumstances, the Board of Commissioners may, after the expiration of such one (1) year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:
  - a. If it is determined that the dwelling is deteriorated, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days.
  - b. If it is determined that the dwelling is dilapidated, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.

#### E. LIENS

1. The amount of the cost of repairs, alterations, improvements, vacating and closing, or removal or demolition by the Public Officer shall be a lien against the real property upon which the cost was incurred.
  - a. The lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of NCGS 160A in accordance with NCGS 160D-1203(7) (Liens).

2. If the dwelling is removed or demolished by the Public Officer, the local government shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling.
  - a. The proceeds of the sale shall credit against the cost of the removal or demolition, and any balance remaining shall be deposited in the Superior Court by the Public Officer.
  - b. It 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.
  - c. If the County contracts for demolition, the contractor shall verify by affidavit that the proceeds from the sale of any salvaged materials, including personal property, fixtures or appurtenances, have been credited against the cost of demolition.
3. Nothing in this Subsection shall be construed to impair or limit in any way the power of local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

#### **F. CIVIL ACTION**

1. If any owner or occupant fails to comply with a lawful order to vacate a place of habitation, Onslow County may file a civil action in the nature of summary ejectment to remove the occupant as authorized by NCGS 160D-1203(8).

### **SECTION 3.5: METHOD OF SERVICE**

- A. Complaints or orders issued by the Public Officer shall be served and parties of interest personally, or by registered or certified mail.
  1. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after mailing.
  2. If regular mail is used, a notice of the pending proceedings shall be also posted in a conspicuous place on the affected premises per NCGS 160D-1206(a).
- B. If the whereabouts of such persons are unknown and cannot be ascertained by the Public Officer in the exercise of reasonable diligence, the Public Officer shall generate an affidavit to that effect. The Public Officer shall then serve the complaint or order by singular publication in a newspaper of general circulation within Onslow County. A notice of the pending proceedings shall also be posted in a conspicuous place on the affected premises per NCGS 160D-1206(b).
- C. Failure on the part of any owner or party in interest to receive or have served upon him/her any complaint, notice, or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party of interest, or any other person.

### **SECTION 3.6: APPEALS**

#### **A. GENERALLY**

1. Any owner or party of interest who has received an order under this Ordinance may appeal from the order to the Board of Adjustment according to the procedure authorized by NCGS 160D-1208(a).

2. The appeal must be filed with the Public Officer and the Board of Adjustment within ten (10) days following service of the order. The notice of appeal shall specify the grounds upon which the appeal is based.
3. Upon the filing of a notice of appeal, the Public Officer shall provide the Board all documents constituting the record upon which the decision appealed from was made.

#### **B. APPEAL OF A DECISION**

1. When an appeal is from a decision of the Public Officer refusing to allow a person to do any act, his/her decision shall remain in effect until modified or reversed.
2. When an appeal is from a decision of the Public Officer requiring a person to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Public Officer certifies to the Board that a suspension of the requirement would cause imminent peril to life or property.
  - a. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) day's written notice to the Public Officer, by the Board, or by a court of record upon petition made pursuant to NCGS 160D-1208(a).

#### **C. THE BOARD OF ADJUSTMENT**

1. The Board of Adjustment shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person, by agent, or by attorney.
2. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter.
3. The Board shall have all the powers of the Public Officer, but the concurring vote of four (4) members shall be necessary to reverse or modify any decision or order of the Public Officer, in accordance with NCGS 160D-1208(b) (Remedies).
4. Every appellate decision of the Board of Adjustment shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the Board, but not otherwise.
5. Any person aggrieved by a decision rendered by the Board of Adjustment may also petition the Superior Court for a temporary injunction restraining the Public Officer from carrying out the decision, pending a final disposition of the cause. The petition shall be filed within thirty (30) days of the issuance of the Board's decision or order in accordance with NCGS 160D-1208(d) (Remedies).

### **SECTION 3.7: PENALTIES**

#### **A. GENERALLY**

1. The remedies provided in this Section are cumulative and not exclusive. They may be independently pursued against the same person for any activity constituting a violation of this Ordinance.
2. Nothing in this Ordinance shall be constructed to impair or limit in any way the power of Onslow County to define and declare nuisances, and to cause their removal or abatement by summary of proceedings or otherwise. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies in any other ordinances or laws.



## B. FINANCIAL

1. In addition to any other penalty imposed by this Ordinance, a violation of this Ordinance may subject the owner or party of interest to a penalty which shall be in accordance with the fee schedule.
2. All fees shall be in accordance with NCGS 14-4(a) (Violation of Local Ordinances Misdemeanor).
3. The penalty shall be payable to Onslow County and shall be paid at the Planning and Development Department.
4. Failure of the owner or party of interest to issue payment within thirty (30) days from the initial date of noncompliance may result in Onslow County initiating an action for collection in the nature of debt.

## C. CRIMINAL

1. In addition to any other penalty imposed by this Ordinance, an owner or party of interest shall be subject to a misdemeanor as provided in NCGS 14-4(a) (Violation of Local Ordinances Misdemeanor).
2. The Public Officer may seek, from an appropriate official of the General Court of Justice, an arrest warrant or other process for violations of this Ordinance.

## D. INJUNCTION

1. In addition to any other penalty imposed by this Ordinance, Onslow County may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction commanding the owner or party of interest to correct an unlawful condition upon or cease an unlawful use in accordance with NCGS 153A-123.
2. In addition to an injunction, the Court may also enter an order of abatement directing that specific action be taken to bring the property into compliance with this Ordinance.
3. If the owner or party of interest fails or refuses to comply, Onslow County is authorized to execute the Court's order and attach a lien to the property for all costs associated with execution.