

TITLE XV: LAND USAGE

**CHAPTER 154: TOWN OF BLACK MOUNTAIN
MINIMUM HOUSING CODE**

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**TOWN OF BLACK MOUNTAIN
MINIMUM HOUSING CODE**

SECTION 154.001 TITLE

There are hereby established rules and regulations for the repair or elimination of unfit and/or unsafe rental housing conditions in the Town of Black Mountain, North Carolina, which shall be known as "The Housing Code of the Town of Black Mountain," and will be referred to hereafter as the "Code."

SECTION 154.002 PURPOSE

In order to protect the health, safety, and welfare of the residents of the Town it is the purpose of this ordinance to establish minimum housing standards for the continued occupancy of all renter occupied dwellings. This ordinance applies only to renter occupied dwellings in order to conserve the enforcement resources of the Town and to provide for greater efficiency in the operation of the inspection scheme hereinafter created.

SECTION 154.003 SCOPE

The provisions of this Code are applicable to all existing dwellings and all dwellings hereafter constructed within the Town of Black Mountain which are used or intended for use as rental property for human habitation. Demountable dwellings or demountable dwellings being moved and temporarily stored prior to relocation, when used or intended for use for human habitation within the Town, shall be subject to the applicable provisions of this Code.

SECTION 154.004 DEFINITIONS

1. Apartment House - 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.

2. Basement - A story, 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.

3. Building - That which is built or constructed as 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."

4. Ceiling Height - The clear vertical distance from the finished floor to the finished ceiling.

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5. Code Enforcement Officer - Any employee of the Town whose assigned duties include the enforcement of one or more of the provisions of the Code.

6. Demolish - 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.

7. Deteriorated - Shall mean that a dwelling 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 (50 %) percent of its fair market value, as determined by finding of the enforcement official.

8. Dilapidated - Shall mean that a dwelling cannot be repaired, altered or improved to comply with all of the minimum standards established by this ordinance except at a cost in excess of fifty (50%) percent of its fair market value, as determined by finding of the enforcement official.

9. Dwelling - Any building, structure, manufactured home or mobile home, or part thereof which is wholly or partly used or intended to be used for living, sleeping or habitation by human occupants, and includes any outhouses and appurtenances belonging there to or usually enjoyed there with. Any manufactured home or mobile home used solely for a seasonal or vacation purpose shall not be regarded as a dwelling. Temporary housing, as hereinafter defined, shall not be regarded as a dwelling. The term shall include within its meaning the terms rooming house and rooming unit, as hereafter defined.

10. Dwelling Unit - Any room or group of rooms, including a bathroom with commode or urinal and tub or shower used exclusively in connection with the occupancy of the unit, located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping and cooking.

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

12. Extermination - The control and elimination of insects, rodents, or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping or by any other recognized and legal pest elimination method.

13. Family - One or more persons living together and having common housekeeping facilities.

14. Garbage - 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 of which before,

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during or after decay may serve as feeding or breeding material for animals or flies or other insects.

15. Habitable Space or Room - Any room or enclosed floor space in a dwelling used or intended for use for living, sleeping, cooking, or eating, including kitchens, but excluding bathrooms, toilets, halls, corridors, pantries, storage space, closets, laundries, and other spaces not used frequently or during extended periods.

16. Infestation - The presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

17. Let - To rent to another for money or other valuable consideration.

18. Manufactured or Mobile Home - A portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over thirty two (32) feet in length and over eight (8) feet in width. As used in this ordinance "mobile home" also means a double-wide mobile home which is two or more portable manufactured housing units designed for transportation on their own chassis, which connect on site for placement on a temporary or semipermanent foundation having a measurement of over thirty two (32) feet in length and over eight (8) feet in width.

19. Multiple Dwelling - Any dwelling containing two (2) or more dwelling units.

20. Occupant - Any person living, sleeping, cooking or eating in, or having actual possession of dwelling, dwelling unit or rooming unit.

21. Owner - Any person who alone, jointly, or severally with others:

(a) Shall have title to any dwelling, dwelling unit or rooming unit with or without accompanying actual possession thereof; or

(b) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance, and the rules and regulations adopted pursuant thereto to the same extent as if he were the owner.

22. Party or Parties in Interest - All individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

23. Person - Any individual, corporation, firm, partnership, association, organization or other legal entity.

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24. Pier - 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.

25. Plumbing - Any and all of the following facilities and equipment: gas pipe, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders) sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, commodes, urinals, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar fixtures together with all connections to water, sewer or gas lines.

26. Public or Common Space - That space within any dwelling which is open to use by the general public or to occupants of more than one dwelling.

27. Rubbish - Combustible and non combustible 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.

28. Tenant - 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.

29. Unfit for Human Habitation - Conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violate or do not comply with one or more of the minimum housing standards established by this ordinance.

30. Unsafe - Especially dangerous to live in 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.

SECTION 154.005 MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS.

(A) Every renter occupied dwelling or dwelling unit shall comply with all of the minimum housing standards established by this ordinance. ~~Delete: and by Volume VII (Residential Building Code) of the North Carolina State Building Code. (Am. Ord. 0-04-03, passed 5-10-04)~~

(B) No person shall let any dwelling or dwelling unit which does not comply with all of the minimum housing standards established by this ordinance.

SECTION 154.006 UNSAFE CONDITIONS.

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

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1. No operating heating facilities between November 1 & March 30 of any year;
2. No potable water service;
3. No hot water supply;
4. No electricity, overloaded non-isolateable electrical circuits, or unsafe or exposed electrical wiring;
5. No sanitary facilities. The presence of raw sewage or open sewer inside the dwelling, whether from broken or plugged, fixtures or pipes inside the dwelling, or migrating into the dwelling from the outside;
6. Structural conditions;
 - (a) Foundations, foundation walls, piers or other foundation supports; exterior walls, interior structural walls, joists, rafters, sills and other structural members which are not capable of supporting the load which normal use would cause to be placed thereon.
 - (b) Roofs, flashing, exterior walls, basement walls, foundations walls, floors, hatchways, windows, which are not maintained so as to be in good condition.
 - (c) The ground used as a floor or any wood floors that are placed on the ground.
 - (d) Outside or inside stairs, steps, porches, landings and other parts or appurtenance which are in such condition as may increase the hazards of collapse, tripping, falling, rodent or pest infestation, fire or otherwise endanger the health or safety of the occupants.
 - (e) Floors, interior walls or partitions, the ceilings of all rooms, closets, and hallways which are not finished or covered with suitable material and which are not maintained in a clean and sanitary condition free of dirt, grease, oil and peeling or flaking paint.
7. Presence of uncontained flammable or combustible liquids or gases, poisonous solids, liquids or gases of life or health threatening depletion of oxygen;
8. Missing portion of roof or ceiling which allows drafts, severe bulging, or large amounts of loose or falling surface material such as plaster;
9. Chimneys must be safe for use as specified and intended.

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"Specified" means use in connection with specific heating appliances or systems, limitations of such use.

"Intended" means use in connection with combustion of fuel, for which the following minimum chimney standards apply:

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

(i) Minimum 18" masonry surrounding thimble as clearance separation from combustibles; or

(ii) Minimum 9-inch air separation for insulated listed stove piping; or

(iii) Minimum 1-inch air clearance surrounded by 6-inch glass fiber insulation and ventilated thimble assembly; or

(iv) Minimum 2-inch air separation for insulated listed stove piping with 1 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.

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

10. The dwelling is a physical threat due to the immediate possibility of collapse;
11. The primary means of exit or escape, in the event of fire or other emergency, is blocked or structurally unsafe;
12. Occupancy of habitable space below grade that does not meet occupancy standards;
13. Internal accumulation of garbage;
14. 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;

(B) Every dwelling shall be provided with an approved listed smoke detector, on each level of the dwelling and in all stairwells, hallways and other common areas of multiple unit dwellings, installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm. The detector shall be listed in accordance with Underwriters Laboratories Listing 217 ("Single & Multiple Station Smoke Detectors"). These detectors should be tested on a regular basis.

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SECTION 154.007 ENFORCEMENT PROCEDURE.

(A) PROCEDURE FOR ENFORCEMENT

When it appears to the Code Enforcement Officer after receipt of a complaint and inspection of the property that any dwelling or dwelling unit does not meet the minimum standards contained in this ordinance, he shall issue and cause to be served, upon the owner and/or the parties of interest in such dwelling or dwelling unit, by the Code Enforcement Officer or by an officer of the Black Mountain Police Department a complaint stating the charges and containing a notice that a hearing will be held before the Code Enforcement Officer at a place and time therein fixed, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or party in interest shall 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. Notice of such hearing shall also be given to at least one of the persons (if any) signing a petition relating to such dwelling. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard.

After such notice and hearing the Code Enforcement Officer shall state in writing his determination whether the dwelling or dwelling unit complies with the minimum standards contained in this ordinance and, if the dwelling is not in compliance, he/she shall issue a list of the steps to be taken to bring the dwelling into compliance. The owner or party in interest shall have twenty (20) calendar days to make such repairs or perform such work as is necessary to bring the dwelling into compliance if the Code Enforcement Officer finds that an emergency situation exists and the building is occupied. If the building is unoccupied, or if the building is promptly vacated until corrections are made, the owner or party in interest shall have ninety (90) calendar days to bring the building into compliance. If the work cannot be completed within the ninety day time frame the Code Enforcement Officer has the authority to grant an extension for completion of the required work.

(B) APPEALS

An appeal from the decision of the Code Enforcement Officer may be made to the Zoning Board of Adjustment. Such appeal shall be perfected and heard as provided for other appeals to the Zoning Board of Adjustment in the Zoning Ordinance of the Town of Black Mountain.

The Town or the owner or parties in interest may appeal the findings of the Zoning Board of Adjustment to the Superior Court for Buncombe County, North Carolina, which said Court shall review the findings of fact and order of the Zoning Board of Adjustment to determine that there was evidence to support its findings and that its ruling was not arbitrary or capricious.

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(C) VIOLATIONS; REMEDIES AND PENALTY

The owner or parties in interest of any dwelling or dwelling unit who fails to comply with an order of the Code Enforcement Officer, or of the Zoning Board of Adjustment if the Code Enforcement Officers order is appealed, shall be guilty of a misdemeanor and shall be fined \$100. Each day that any such failure to comply with such order continues shall constitute a separate and distinct offense.

(Ord. 0-00-05, passed 04/10/00)