

filed by
** Anne D. ...*
RECORDING FEB 2 3 2001

**A MUNICIPAL ORDINANCE TO ESTABLISH MINIMUM BUILDING REGULATIONS
FOR THE TOWN OF WACO ADOPTED MARCH 19, 2001, BY THE TOWN BOARD**

895 Section 3.5-1 -- 3.5-20. Reserved.

Section 3.5-21 -- Scope of Article and Codes

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by BONNIE E. REECE
REGISTER OF DEEDS
BOOK 1298 PAGE 2389

(a) The provisions of this article and of the regulatory codes herein adopted shall apply to the following:

- (1) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every building or structure or any appurtenances connected or attached to such building or structure;
- (2) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof;
- (3) The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, cooling, and refrigeration systems, fuel-burning equipment, and appurtenances thereof;
- (4) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof.

(b) The adoption of this article and the codes herein adopted by reference shall constitute a resolution within the meaning of G.S. 143-138(e) making the regulatory codes herein adopted applicable to dwellings and outbuildings used in connection therewith, to apartment buildings used exclusively as a residence for not more than two families and to temporary buildings or sheds used exclusively for construction purposes, not exceeding 20 feet in any direction and not used for living quarters.

Section 3.5-22

Building code adopted.

The North Carolina State Building Code, Volume I, General Construction, as enacted and published by the North Carolina Building Code Council and as modified by the cumulative supplements thereto covering amendments passed and ratified, is hereby adopted by reference as fully as though set forth herein as the building code of the Town of Waco to the extent such code is applicable for safe and stable design, methods of construction, minimum standards, and use of materials in buildings or structures hereafter erected, enlarged, altered, repaired, or otherwise constructed or reconstructed.

Section 3.5-23

Plumbing code adopted.

The North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing) as enacted and published by the North Carolina Building Code Council and as modified by the cumulative supplements thereto and the amendments adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth herein as the plumbing code for the Town of Waco. Homogeneous bituminized fiber sewer pipe is hereby added to the approved materials listed in Table 505 of the North Carolina State Building Code, Volume II, Plumbing, for use within the Town of Waco established for the enforcement of municipal

regulatory powers conferred by Article 19, Chapter 160A of the North Carolina General Statutes. All installations of such material must meet the current requirements of the Southern Standard Plumbing Code.

Section 3.6-24 Heating code adopted.

The North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating) as adopted and published by the North Carolina Building Code Council is hereby adopted reference as fully as though set forth herein as the heating code for the Town of Waco.

Section 3.5-25 Electrical code adopted.

The North Carolina Electrical Code (North Carolina State Building Code, Volume IV Electrical), which adopted by reference the 1976 edition of the National Electrical Code of the National Fire Protection Association, as adopted by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth herein as the electrical code for the Town of Waco.

Section 3.5-26 Residential building code adopted.

The North Carolina Uniform Residential Building Code as enacted by the North Carolina Building Inspectors Association, as published by the North Carolina Building Code Council and as modified by supplements, is hereby adopted by reference as fully as though set forth herein as the residential building code for one- and two-family residential-buildings in the Town of Waco.

Section 3.5-27 Mobile home code adopted.

The Uniform Standards Code for Mobile Homes as enacted and published by the North Carolina, department of insurance and by the North Carolina State Building Code Council is reference as fully as though set forth herein as the uniform standards code for mobile homes for the Town of Waco. (Please Note: There is a separate ordinance dealing with the setting up of a mobile home within the jurisdiction of the Town which also must be complied with.)

Section 3.5-28 Compliance with codes.

(a) All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina State Building Code, General Construction, Volume I or the North Carolina Uniform Residential Building Code, or Uniform Standards Code for Mobile Homes whichever is applicable.

(b) Every building or structure intended for human habitation, occupancy or use shall have plumbing, plumbing systems, or plumbing fixtures installed, constructed, altered, extended, repaired. Or reconstructed in accordance with minimum standards, requirements, and other provisions of the North Carolina Plumbing Code (North Carolina Building Code Volume II, Plumbing).

(c) All mechanical systems consisting of heating, ventilating, cooling and refrigeration systems, fuel-burning equipment shall be installed, erected, altered, and maintained in accordance with the minimum standards,

requirements, and other provisions of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating).

(d) All electrical wiring, installations and appurtenances shall be erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical).

ARTICLE II. MINIMUM HOUSING CODE

Section 3.5-31 Findings, Purpose, and Authority.

(a) Pursuant to GS 160A-441, it is hereby found and declared that there exist in the jurisdiction of the Town of Waco dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe and unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the Town of Waco.

(b) In order to protect the health, safety and welfare of the residents of the Town of Waco as authorized by GS 160A, Article 19, Part 6, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by GS 160A-444.

(c) In addition, it is hereby found and declared, under the authority of GS 160A-174, that there exist in the jurisdiction of the Town of Waco dwellings which, although not meeting the classification as unfit for human habitation, fail to fully comply with all the minimum standards for housing fitness as established herein and therefore have present one or more conditions which are inimical to the public health, safety and general welfare. Such conditions if not corrected can lead to deterioration and dilapidation of dwellings, which render them unfit for human habitation.

Section 3.5-33 Definitions

The following definitions shall apply in the interpretation and enforcement of this article:

Abandoned Structure. Any structure, whether designed and intended for residential or other uses, which has been vacant or not in active use, regardless of purpose or reason, for the past two-year period and which is determined by the Code Enforcement Officer to be unfit for human habitation or occupancy based upon the standards as set forth in this article.

Basement A portion of a building, which is located partly underground, having access to light and air from windows located, above the level of the adjoining ground.

Cellar. A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

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 article, at a cost not in excess of fifty (50%) percent of its value, as determined by finding of the Code Enforcement Officer.

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 article at a cost not in excess of fifty (50%) percent of its value, as determined by finding of the Code Enforcement Officer.

Dwelling. Any building, structure, manufactured home or mobile home, or part thereof, which is wholly or partly used or intended to be used for human habitation, and includes any accessory buildings and structures and appurtenances belonging thereto or usually enjoyed therewith. 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 hereinafter defined.

Dwelling Unit. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

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, trapping or by any other recognized and legal pest elimination methods approved by the Code Enforcement Officer.

Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Gender. Words having a masculine gender shall include the feminine and neuter genders.

Habitable Room. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

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 to the public.

Junked Motor Vehicle. All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle that:

1. Is partially dismantled or wrecked; or
2. Cannot be self-propelled or moved in the manner in which it was intended to move; or
3. Is more than five years old and worth less than one hundred dollars (\$100.00); or
4. Does not display a current license plate.

Jurisdiction. The Jurisdiction of the Town of Waco shall be the city limits of the Town and the additional one-mile zoning perimeter of the Town.

Manufactured Home (Mobile Home). A structure as defined on GS 143-145(7).

Multiple Dwelling. Any dwelling containing more than two (2) dwelling units.

Occupant. Any person over one (1) year of age living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

Operator. Any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

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

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

(b) Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit; or

(c) 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 of the rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

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

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

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

Public Authority. Any housing authority or any officer who is in charge of any department or branch of the government of the Town of Waco or state relating to health, fire, building regulations, or other activities concerning dwellings in the Town of Waco.

Rooming House. Any dwelling, or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

Rooming Unit. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rubbish. Non-organic waste materials, including paper, rags, cartons, boxes, wood, excelsior, rubber, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

Supplied. Paid for, furnished or provided by, or under the control of, the owner or operator.

Temporary Housing. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.

Unfit For Human Habitation. When conditions exist in a dwelling, dwelling unit, rooming house or rooming unit which violate or do not comply with (1) one or more of the minimum standards of fitness or one (1) or more of the requirements established by this article.

Whenever the words "dwelling", "dwelling unit", "rooming house", "rooming unit", or "premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof".

Section 3.5-34 Minimum Standards of Fitness for Dwellings and Dwelling Units

(a). Every dwelling and dwelling unit used as human habitation or held out for use as human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of this article.

(b). No person shall occupy as owner-occupant, or let to another for occupancy or use as human habitation, any dwelling or dwelling-unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this article.

Section 3.5-35 Minimum Standards for Structural Condition

The following standards shall constitute the minimum standards for structural conditions of a dwelling or dwelling unit:

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

(b). **Supports.** Floors, walls, ceilings or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(c). **Foundations.** Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

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

(e). **Egress.** Adequate facilities for egress in case of fire or panic shall be provided.

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

(g). Watertight 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 weather and watertight.

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

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

Section 3.5-36 Standards for Basic Plumbing, Heating and Electrical Equipment & Facilities

(a) Plumbing standards.

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

(2) Facilities. Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been out off because of non-payment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

(3) Maintenance. All plumbing fixtures shall be maintained in a state of good repair and in good working order.

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

(b). Heating standards generally. Every dwelling shall have facilities for providing heat as stated below. Such facilities shall be maintained in a state of good repair and good working order.

(1) Central and Electric Heating Systems. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of sixty-eight (68) degrees Fahrenheit measured at a point three (3) feet above the floor during ordinary winter conditions.

(2) Other Heating facilities. Where a central or electric heating system is not provided, each dwelling shall be provided with sufficient electrical receptacles, fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected.

(c). Electrical standards

(1) Wiring, lights, outlets. Every dwelling shall be wired for electric lights and convenience receptacles. Every habitable room or space shall contain at least two (2) floor or wall type electrical receptacle outlets, installed in such a manner as determined by the N.C. Electrical Code. In kitchens, at least three (3) such electrical convenience receptacles shall be provided. At least one (1) electrical convenience

receptacle shall be provided in each bathroom. There shall be installed in every habitable room, bathroom, water closet room, laundry room, and furnace room at least one (1) supplied ceiling or wall type electric light fixture which shall be controlled by a wall switch, except for the laundry room and furnace room which may use a pull-chain type light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three (3) floor or wall type electric convenience receptacles.

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

(3) **Maintenance.** All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the N.C. Electrical Code.

Section 3.5-37 Ventilation Standards

(a) **General.** Every habitable room shall have at least one (1) window or skylight facing directly to the outside. The minimum total window area, measured between stops, for every habitable room shall be eight percent (8%) of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light-obstructing structures are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen percent (15%) of the total floor area of such room.

(b) **Habitable rooms.** Every habitable room shall have at least one (1) window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least forty-five (45%) of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(c) **Bathroom and Water Closet Rooms.** Every bathroom and water closet compartment shall comply with the light and ventilation requirements 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.

Section 3.5-38 Space, Use and Location Standards

(a) **Room sizes.** Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the N.C. Residential Building Code.

(1) Every dwelling unit shall contain at least one hundred and fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three (3) occupants, and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant.

(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area

for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(b) Ceiling Height At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and six (6) inches.

(c) Floor Area Calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent (10%) of the required habitable floor area. The floor area of any part of any room where the height is less than four (4) feet six (6) inches shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

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

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

(1). The floor and walls are substantially watertight;

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

(3). The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or access way,

Section 3.5-39 Safe and Sanitary Maintenance Standards

(a) Exterior Foundation, Walls and Roof. Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(b) Interior Floors, Walls and Ceiling. Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(c) Windows and doors. Every window, exterior door, basement or cellar door and hatchway shall be substantially weather tight, watertight and rodent proof and shall be kept in sound working condition and good repair.

(d) Stairs, Porches and appurtenances. Every outside and inside stair, porch and appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair. All porches, decks, stairs and landings that are more than thirty (30) inches above adjacent ground or floor level shall have approved protective railings not less than thirty (30) inches and not more than thirty-four (34) inches in height for stairs and at least thirty-six (36) inches in height for porches, decks, and landings.

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

(f) Supplied facilities. Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(g) Drainage. Every yard shall be properly graded in order to obtain through drainage and to prevent the accumulation of stagnant water.

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

(i) Egress. Every dwelling unit shall be provided with adequate means of egress as required by NC Residential Building Code.

(j) Smoke detector systems. Every dwelling unit shall be provided with an approved listed smoke detector by the owner and installed in accordance with the manufacturer's recommendations and listing. The occupant of the dwelling shall be responsible for the maintenance of any battery powered smoke detector system and the testing of any smoke detector system.

Section 3.5-40 Control of Insects, Rodents and Infestation

(a) Screens. In every dwelling unit, for protection against mosquitoes, flies and other insects. Every door opening directly from a dwelling unit to out-door space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.

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

(c) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

(d) Rubbish Storage and Disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Municipal Code of the Town of Waco, and the occupant/owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(e) Garbage Storage and Disposal. Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit

(mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by Town of Waco.

Section 3.5-41 Rooming House Standards; Exceptions

(a) All of the provisions of this ordinance, and all of the minimum standards and requirements of this article, shall be applicable to rooming houses, and to every person who operates a rooming house or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subdivisions:

(1) Water closet, hand lavatory and bath facilities. At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever such facilities are shared. All such facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway and shall not be more than one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(2) Minimum floor area for sleeping purposes. Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) Square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

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

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

Section 3.5-42 Responsibilities of Owners and Occupants

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

(b) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof, which he occupies, and controls.

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

(d) **Supplied Plumbing Fixtures.** Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

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

(f) **Maintenance.** All buildings and structures including accessory buildings and structures, i.e. carports, garages, storage buildings, etc. and all parts thereof shall be maintained in a safe and sanitary condition and in accordance with the requirements of this code. All devices, facilities and safeguards required by this article shall be maintained in good working order. The owner or his designated agent shall be responsible for the maintenance of all buildings and structures to which this article applies.

***(g) **Care Of Premises.** It shall be unlawful for the owner or occupant of a residential building, structure, or Property, to utilize the premises of such residential property for the open storage of any abandoned motor vehicle, icebox, refrigerator, stove, glass, building materials, rubbish, or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items as listed above, upon notice from the Officer.

(h) **Requirements Not Covered.** Any requirement not specifically covered by this article found to be necessary for the safety, health, and welfare of the occupants of any dwelling shall be determined by the Officer subject to appeal to the Board of Adjustment.

(i) **Owners Duty to Secure Buildings and Dwellings.** The owners, parties in interest or other parties in control or possession of any building or dwelling which is unoccupied and abandoned, burned, or otherwise dangerous shall at all times cause such structures to be firmly secured against unauthorized entry.

(j) In cases where it reasonably appears to such officer that there is imminent danger to the life or safety of any person or to safety of other property unless a dwelling or building as described hereinabove is immediately secured against unlawful entry by children, vagrants, animals, or against detrimental elements of the weather, the Officer is authorized to immediately secure such building or dwelling against such unauthorized entry or detriment to the extent deemed necessary, and the costs of such security shall be recovered and collected as provided in Section 3.5-50.

(k) The provisions of this section shall be in addition to, and not in lieu of, any other provisions of this article imposing obligations upon parties owning or possessing buildings or dwellings within the Town of Waco. Violations of this section shall be subject to provisions of Section 3.5-53 and to all other provision of this article.

Section 3.5-43 Powers and Duties of the Code Enforcement Officer

For the purposes of administering and enforcing the provisions of this ordinance the Code Enforcement Officer (hereinafter referred to as Officer") is hereby designated as the chief administrative and enforcement official. The Mayor shall appoint the Code Enforcement Officer. The officer shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including, without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

- (a) **Investigations.** To investigate the dwelling and building conditions in the Town of Waco in order to determine which dwellings therein are unfit for human habitation and dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in this article.
- (b) **Action.** To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated.
- (c) **Records.** To keep a record of the results of inspections made under this ordinance and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed.
- (d) **Oaths, witnesses, etc.** To administer oaths and affirmations and to examine witnesses and receive evidence.
- (e) **Right of entry.** To enter upon and within premises and dwellings for the purpose of making examinations and investigations; provided, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.
- (f) **Delegation of functions, etc.** To appoint and fix the duties of such officers, agents, and employees he deems necessary to assist in carrying out the purposes of this ordinance, and to delegate any of his functions and powers under this article to such officers, agents and employees
- (g) To perform such other duties as may be prescribed herein or by the Board of Aldermen.

Section 3.5-44 Inspections: Duty of Owners and Occupants

- (a) For the purpose of carrying out the intent of this article, the Officer is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises, including abandoned structures. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the Officer free access to such dwelling, dwelling unit or rooming unit, and its premises, at all reasonable times for the purposes of such inspection, examination and survey.
- (b) Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order assigned pursuant to the provisions of this article.

Section 3.5-45 Procedures for Enforcement

- (a) **Preliminary Investigations, Notices, Hearings.** Whenever a petition is filed with the Officer by a public authority or by at least five residents of the Town of Waco charging that any dwelling is unfit for human habitation or whenever it appears to the Officer (on his own motion) that any dwelling is unfit for human habitation, the Officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Officer (or his designated agent) at a place within the Town of Waco in which the property is located fixed not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed

in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Officer.

(b) Procedure after Hearing. After such notice and hearing, the Officer shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation, and if so, whether it is deteriorated or dilapidated.

(1) If the Officer determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such standards of fitness established by this article within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

(2) If the Officer determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article, or else to vacate and remove or demolish the same within a specified period of time not to exceed ninety (90) days.

(3) In emergency cases where it reasonably appears there is immediate danger to life or safety of any person or to safety of other property, unless a dwelling, unfit for human habitation or a dangerous building as herein described is immediately repaired or demolished, the Officer shall cause immediate repair or demolition of such dwelling or building and the cost of such repair or demolition shall be recovered and collected as provided in Section 3.5-49.

Section 3.5-46 Failure to Comply with Order

(a) In Personam Remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Officer to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Officer to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Officer shall submit to the Board of Aldermen at its next regular meeting a resolution directing the Town of Waco Attorney to petition the Superior Court for an order directing such owner to comply with the order of the Officer, as authorized by GS 160A-446(g).

(b) In Rem Remedy. After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Officer within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding paragraph (a), the Officer shall submit to the Board of Aldermen an ordinance ordering the Officer to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Officer, and pending removal or demolition, to place a placard on such dwelling as provided by GS 160A-443 and Section 3.5-49 of this article.

Section 3.5-47 Appeals from Order of the Code Enforcement Officer

(a) An appeal from any decision or order of the Officer may be taken by any person aggrieved thereby. Any appeal from the Officer shall be taken within ten (10) days from the rendering of the decision or service of the order by filing with the Officer and with the Board of Adjustment a notice of appeal, which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Officer shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Officer refusing to allow the person aggrieved thereby to do any such act, this decision shall remain in force until modified or reversed. When any appeal is from a decision of the Officer 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 Officer certifies to the Board after the notice of appeal is filed with him, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) day's written notice to the Officer, by the Board, or by a court of record upon petition made pursuant to GS 160A-446 (f) and subsection (d) of this section.

(b) 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 or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in this matter, and to that end it shall have all the powers of the Officer, but the concurring vote of two-thirds of the members of the Board shall be necessary to reverse or modify any decision or order of the Officer. The Board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this article, to adapt the application of this article to the necessities of the case to the end that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done.

(c) Every 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.

(d) Any person aggrieved by an order issued by the Officer or a decision rendered by the Board of Adjustment may petition the Superior Court for an injunction, restraining the Officer from carrying out the order or decision and the Court may, upon such petition, issue a temporary injunction restraining the Officer pending a final disposition of the cause, as provided by GS 160A-446 (f).

Section 3.5-48 Service of Complaints and Orders

Complaints or orders issued by the Officer shall be served upon persons either personally or by registered or certified mail. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Officer in the exercise of reasonable diligence, and the Officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the Town of Waco at least once no later than the time at which personal service would be required under the provisions of this ordinance. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

Other owners or parties in interest. Failure on the part of any owner or parties in interest to receive or have served upon them any complaint, notice or order provided for in this section shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person.

Section 3.5-49 In Rem Action By Officer; Placarding

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Officer issued pursuant to the provisions of this article, and upon adoption by the Board of Aldermen of an ordinance authorizing and directing him to do so, as provided by GS 160A-443(5) and Section 3.5-46 of this article, the Officer shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board of Aldermen and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "THIS BUILDING IS UNFIT FOR HUMAN HABITATION: THE USE OR OCCUPATION OF THIS BUILDING FOR HUMAN HABITATION IS PROHIBITED AND UNLAWFUL." Occupation of a building so posted shall constitute a misdemeanor.

(b) Each ordinance shall be recorded in the office of the Town Clerk in the Town of Waco wherein the property is located, and shall be indexed in the name of the Property owner in the grantor index, as provided by GS 160A-443 (5),

(c) If the dwelling is removed or demolished by the Officer, he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Officer, shall be secured in such manner as may be directed by such court to the persons found to be entitled thereto by final order or decree of such court; provided, however, that nothing in this section shall be construed to impair or limit closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

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

(d) In addition to the penalty established by subsection (c) above, and the remedies provided by other provisions in this article, this article may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

Section 3.5-55 Liability

Any officer or employee of the Town of Waco or member of the Board of Adjustment charged with the enforcement of this article in the discharge of his duties shall not thereby render himself liable personally, and he is hereby relieved from all personal liability from any damage, that may accrue to person or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any such officer or employee because of this article shall be defended by the Town of Waco until the end of such proceedings.

Section 3.5-56 Restrictions on Employees

An officer or employee connected with the Building Inspection Department, except one whose only connection is as a member of the Board of Adjustment established by this article, shall not be financially interested in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building or in

the making of plans specifications therefore, unless he is the owner of such building. Such officer or employee shall not engage in any work, which is inconsistent with his duties or with the interest of the department.

Section 3.5-57 Severability

If any section, subsection, sentence, clause, or phrase of this article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this article. The Board of Aldermen hereby declares that it would have passed this article and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses or phrases be declared invalid.

The foregoing Ordinance was duly adopted by the Board of Aldermen of the Town of Waco at the regular Town Meeting on the 19th day of March, 2001.

Horace Lutz, Mayor
Horace Lutz, Mayor

ATTEST:

Bonny V. Alexander
BONNY ALEXANDER, TOWN CLERK

