Chapter 4 - BUILDINGS; CONSTRUCTION AND RELATED ACTIVITIES

**State Law reference—** State Building Code Council and building code, G.S. § 143-136 et seq.; authority to set building setback lines, G.S. § 160A-306; building inspection, G.S. § 160A-411 et seq.; adoption of technical codes by reference, G.S. § 160A-76(b).

ARTICLE I. - IN GENERAL

Sec. 4-1. - Fire district established and described.

The following fire district is hereby established and defined: Beginning at W. Main St. and Ed Bowman St. to the west; Powerhouse Rd. and N. Powerhouse Rd. to the west; Conley Bumgarner Rd. and St. Paul’s Church Rd. to the northwest; Watermill Glen Alpine Rd. at the river to the North; E. Main St. and Bennett Epley Ln. to the East; Conley Rd. at I-40 bridge to the south; Causby Rd. and Messer Ave. to  the south.

Sec. 4-2. - Standards for day care facilities.

(a) *Small group day care facilities (six through 15 children).* All small group day care homes keeping six through 15 unrelated children must meet the requirements of the State Building Code for school occupancy, except that specially designated rooms of extended or modified family residences may be used under the following conditions:

(1) The facility must be licensed by a state agency or under the jurisdiction of a Town or County  Building Inspector, Fire Prevention Inspector or Fire Chief, which or who has a responsibility to  periodically re-inspect the facility to make sure that the number of children being cared for is no  more than the license calls for (or a maximum of 15 children whichever is less) and that the  children use only the first floor or grade level rooms.

(2) The building must meet the Town Residential Building Code requirements for dwellings and not be over 2,500 square feet in area on any one floor and be not over two stories in height.

(3) The first-floor rooms, or grade level rooms with exit to outside at grade (located at grade or first floor level) may be used provided all walls and ceilings are covered with plaster, gypsum wall board or other noncombustible surfaces. All other rooms with a flame spread rating higher than 200 must be separated from the day care use rooms by one-hour rated walls and solid core doors or such combustible surfaces must be painted with fire retardant paint.

(4) Each room used for day care purposes must have access to two remotely located outside exits. Only one exit is required if an exterior exit door opens directly to the outside from each room to be used by the children. Access from the room door to the two remotely located outside exits must not have a dead-end distance of more than 20 feet measured from the room door used by the children to the point at which two separate outside exits can be reached. A dead-end occurs when a hallway is so arranged that a person therein can travel in only one direction to reach either exit.

(5) All stairs from the floor used by the children that lead to a floor above or below must be closed off with one-hour walls and solid core doors or equivalent.

(6) Fuel burning space heaters, fireplaces, floor furnaces and portable electric space heaters are prohibited unless provided with a protective screen attached securely to substantial supports. Unvented fuel burning heaters of all types are prohibited.

(7) All unoccupied spaces such as attics, basement workshops, furnace rooms, etc., must be provided with Underwriters' Laboratories labeled automatic fire detection devices.

(8) The space to be used must have at least ten percent of its floor area composed of windows with one-half of these windows openable (or mechanically ventilated), and if space is partially below grade it must have exit directly to the outside.

(b) *Family day care homes (less than six children).* All family day care homes keeping less than six unrelated children must meet the requirements of the Town Residential Building Code for dwelling and

be limited to not more than 2,500 square feet in area per floor if of wood frame construction. Two-story dwellings may be used provided the children are kept on the first floor.

(c) *Day care centers (more than 15 children).* All day care centers serving more than 15 children must meet the requirements of the State Building Code for Group C schools except that those keeping children less than three years old must meet Group D-2 Institutional Occupancy requirements. Wood frame construction is restricted to one story in height and not more than 2,500 square feet in area. All walls and ceilings must have a flame spread rating of less than 200. The furnace room must be separated from the rest of the building with one-hour rated walls and ceilings. An automatic sprinkler system or an automatic fire detection system and one-hour rated walls and ceilings throughout are required for Group D-2 Institutional Occupancy. (See pamphlet on nursing homes and boarding homes for other applicable requirements for D-2 Institutional Occupancy. Minimum door widths are three feet in lieu of 44 inches as required in this pamphlet for nursing homes, etc. Minimum corridor widths are 44 inches in lieu of widths specified in the nursing home pamphlet).

Secs. 4-3—4-19. - Reserved.

ARTICLE II. - BUILDING CODE ENFORCED BY BURKE COUNTY BUILDING INSPECTION

Sec. 4-20. - State Building Code adopted.

The North Carolina State Building Code 2018 edition, and subsequent editions, supplements or amendments as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance shall be in effect as hereinafter modified in the Town and shall be applicable in every building and every property.

**State Law reference—** As to State Building Code, see G.S. § 143-138.

Sec. 4-21. - State Residential Building Code adopted.

The North Carolina Residential Building Code, 2018 edition, and subsequent editions, supplements or amendments are hereby adopted as the Residential Building Code as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance, including each section thereof, which is incorporated herein and made a part hereof by reference. It shall be known and cited as the Residential Building Code of the Town, including each section thereof. Subsequent editions, supplements and amendments shall become immediately effective as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance.

Sec. 4-22. - Building permits.

(a) *Issuance does not authorize violation of article or prevent correction of defects.* The issuance or granting of a permit or approval of plans or specifications shall not be deemed or construed to be a permit for, or an approval of any violation of the provisions of this article. The issuance of a permit upon approval of plans or specifications shall not prevent the Building Inspector from thereafter requiring the correction of error in such plans or specifications, or from preventing building operations thereunder when in violation of this article or of any other ordinance of the Town.

(b) *Site inspection for drainage.* Prior to the issuance of a building permit, the Building Inspector shall make an on-the-premises inspection of the lot where the building is proposed and if drainage problems are involved, shall report such fact to the Town Clerk for his or her recommendations before the building permit is issued.

Sec. 4-23. - Reserved.

Sec. 4-24. - Obstructing streets and sidewalks in connection with construction work.

(a) *Applicability of section.* Permits issued to any person for the use of streets or sidewalks for the purpose of collecting or laying building material or equipment thereon or permits to continue construction work or wrecking near the streets or sidewalks shall be subject to the conditions set forth in this section.

(b) *Insurance.* A policy of insurance shall be provided to the Town to cover its liability in all cases where building construction work is being done or alterations or repairs are being made to a building or structure or the wrecking of the same near, over or in a street or sidewalk or were building materials

or equipment are placed near, over or in the street or sidewalk by any person other than a public service corporation franchised by the Town or a person so employed by the Town under the direction of the Town.

(c) *Underestimation of cost.* If, in the opinion of the Building Inspector, the estimate of the construction cost of the building, alteration or repair, appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed cost to meet the approval of the Building Inspector.

(d) *Permit fee.* In addition to the fee, an additional fee shall be charged for all street obstruction permits, the fees to be charged being as follows:

(1) For the first $4,000.00, $10.00.

(2) For the work costing more than $4,000.00, an additional $1.00 per $1,000.00 for the remaining cost with a maximum fee of $25.00.

(e) *Repairs required.* All damaged streets or sidewalks shall be repaired to their original condition, according to engineering specifications and any applicable North Carolina Department of Transportation requirements.

Sec. 4-25. - Demolition of unsafe buildings—Noncompliance with order of Building Inspector. If the owner fails to remove or demolish a building in compliance with an order by the Building  Inspector, the Building Inspector may cause such building to be removed and demolished; provided,  however, the duties of the Building Inspector set forth in this section shall not be exercised until the Board  of Aldermen shall have by ordinance ordered the Building Inspector to proceed to effectuate the  provisions of section 4-26 with respect to the part of the property which the Building Inspector shall have  found to be especially dangerous to life and which property shall be described in the ordinance.

**State Law reference—** Unsafe buildings condemned, G.S. § 160A-426.

Sec. 4-26. - Same—Demolition; costs, lien against property.

(a) After the Board of Aldermen shall have by ordinance ordered the Building Inspector to demolish a  particular building, the Building Inspector shall upon default of the owner to remove or demolish the  subject building within the time specified in the ordinance, demolish or cause to be demolished the  subject building and the cost for the demolition of such building shall be a lien on the real property  upon which such cost was incurred.

(b) The Building Inspector may demolish and remove such building with Town personnel or may cause  the demolition and removal of such buildings by private contracts; provided, however, the Building  Inspector, should such inspector cause removal by private contractor, shall first secure competitive  bids in the manner provided for by the general law and Town ordinances governing contracts by local  governmental units with private contractors.

(c) The materials of such buildings shall be held by the Building Inspector and sold in the manner provided  for by general law to recover the costs for the removal or demolition of such buildings, or the residual  materials of such building shall be included in such contract thereby reducing overall costs, whether  the building is dismantled by the Building Inspector with Town personnel or by agents supervised by  the Inspector or by private contractors, and any surplus shall be deposited by the Building Inspector  in the office of the Clerk of Superior Court and shall be secured in such manner as may be directed by  such court and disbursed by such court to the persons found to be entitled thereto by final order or  decree of such court.

**State Law reference—** Enforcement to abate unsafe buildings, G.S. § 160A-432. Sec. 4-27. - Remedies for violations of article.

The Building Inspector or any properly authorized representative acting in the Inspector's behalf is hereby empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this article. Any person having been served with an order to remove any such violation or to  cease and desist from a continuing violation, who shall fail to comply with such order within ten days after  service thereof, or who shall continue to violate any provision of this article in the respect named in such  order, shall be guilty of a misdemeanor and shall be subject to punishment as provided in Section 1-6. Any trial which might be conducted pursuant to the authority of this section shall not constitute former jeopardy of the defendant therein and if such defendant continues in the violation for which such trial was held, such continuing violation shall be a separate misdemeanor for which such defendant may again be tried. In addition to the foregoing remedies, the Building Inspector may maintain, in the name of the Town, an action of injunction to restrain any violation of this article.

Sec. 4-28. - Reserved.

Sec. 4-29. - Reserved.

ARTICLE III. - PLUMBING CODE

Sec. 4-30. – State of North Carolina Plumbing Code adopted by reference.

The State of North Carolina Plumbing Code, 2018 edition and subsequent editions, supplements or amendments, as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance, shall be in effect as hereinafter modified, in the Town and shall be applicable in every building and every property.

Sec. 4-31. - Enforcing officer.

The requirements and provisions of this article shall be enforced by the Building Inspector.

Sec. 4-32. - Reserved.

Sec. 4-33. - Reserved.

Secs. 4-34—4-38. - Reserved.

ARTICLE IV. - ELECTRICAL CODE

**State Law reference—** Electrical wiring of houses, buildings, and structures, G.S. § 143-143.2.

Sec. 4-39. – State of North Carolina Electrical Code adopted by reference.

The State of North Carolina Electrical Code, 2017 edition and subsequent editions, supplements, or amendments, as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance, shall be in effect as hereinafter modified, in the Town and shall be applicable in every building and every property.

Sec. 4-40. - Short title; scope.

This article, together with and including the National Electrical Code, 1985 edition, and subsequent editions, supplements or amendments as approved by the National Fire Protection Association, the American Standards Association, and promulgated by the North Carolina Building Codes Council, shall be known, and cited as the Electrical Code of the Town, including each section thereof.

Sec. 4-41. - Local option amendments to the National Electrical Code.

(a) All wiring on or in permanent buildings or structures located within a defined first (number one or primary) fire district shall utilize approved raceways or metal jacketed cables such as MI of Type MC Metal-Clad (Type A. C. not allowed) as permitted by the National Electrical Code.

(b) All permanent buildings, wherever situated, which are required to have an emergency system power  source by the State Building Code shall have the service entrance conductors enclosed in approved  raceway; and in addition to the above, all portions of the required emergency lighting system for the  entire building shall be wired in metal raceway, nonmetallic raceways encased in not less than two  inches of concrete, mineral-insulated metal-sheathed cable, or Type MC cable as permitted by the

State Electrical Code. The total area of any specific place of assembly shall include the area of balconies and the area of connection rooms with movable partitions.

(c) Exceptions to rules (a) and (b): Sound equipment, communication circuits, class 2 and 3 remove control and signal circuits, and fire protection signaling circuits as permitted in the National Electrical Code.

(d) Each individual gasoline pump, dispenser, lighting standard or other electrical device located where gasoline or other volatile flammable liquids or liquefied flammable gases are transferred to the fuel tank of any motor vehicle shall be supplied through an individual conduit outside of the hazardous areas, or consolidation within an approved junction box flush with the dispensing island surface.

(e) Service equipment shall not be in any attic, clothes closet, kitchen storage cabinet, bathroom, toilet room, coal, or trash bin.

(f) All panelboards which have spare pole spaces or space overcurrent devices and are set flush in masonry or finished walls shall be provided with at least one-inch approved raceway or other equivalent provision for future extension. Such raceway when required, shall be installed to the basement, crawl space, accessible ceiling space or attic, or to a junction box in ceiling or side wall at ceiling line.

Sec. 4-42. - Enforcement—Building Inspector.

(a) The Building Inspector shall perform all duties of, and function as, the Electrical Inspector.

(b) The Electrical Inspector shall make a monthly report to the Board of Aldermen of all permits issued, inspections made, and fees collected.

Sec. 4-43. - Same—Right-of-entry and to discontinuing electric service.

The Electrical Inspector shall have the right during reasonable hours to enter any building in the  discharge of such inspector's official duties, or for the purpose of making any inspection, reinspection or  test of the installation of electric wiring, devices, appliances and equipment, contained therein, and shall  have the authority to cut or disconnect any wire in cases of emergency where necessary for safety to life  and property. The Electrical Inspector is hereby authorized to disconnect or order the discontinuance of electrical service to any electric wiring, devices, appliances, or equipment found to be dangerous to life or property because it is defective or defectively installed until such wiring, devices, appliances and equipment and their installation have been made safe and approved by the Electrical Inspector.

Sec. 4-44. - Same—Punishment for violation.

Any person who shall violate any of the provisions of this article, or who shall fail to correct any defects within a reasonable specified time after having been notified in writing by the Electrical Inspector, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Section 1-6.

Sec. 4-45. - Same—Article does not affect liability for damages.

This article shall not be construed to relieve from or lessen the responsibility or liability of any party  owning, operating, controlling or installing any electric wiring, devices, appliances or equipment for  damages to persons or property caused by any defect therein, nor shall the Town be held as assuming  any such liability by reason of the inspection authorized herein or the certificate of approval issued as  herein provided.

Sec. 4-46. - Permits and inspections.

(a) *Required; exceptions.* No electric wiring, devices, appliances or equipment shall be installed within or on any building, structure or premises, nor shall any alteration or addition be made in any such existing wiring, devices, appliances or equipment without securing a permit therefore and having an inspection thereof made by the Electrical Inspector. No permit shall be required, however, for minor repair work,  such as the replacement of lamps, or the connection of portable devices to suitable receptacles which  have been permanently installed and such other work as may be determined from time to time by the  Electrical Inspector, and no permit shall be required for the installation, alteration or repair of electrical  wiring, devices, appliances and equipment installed by or for an electrical public service corporation

for the use of such corporation in the generation, transmission, distribution, or metering of electrical energy, or for the use of such corporation in the operation of signals or the transmission of intelligence.

(b) *To whom permit issued.* No permit, except an annual permit or personal permit provided for in subsections (c) and (d) for the installation or alteration of any electric wiring, devices, appliances, or equipment shall be issued to any person unless such person is the holder of an electrical contractor’s license issued by the State Board of Examiners of Electrical Contractors.

(c) *Personal permits.* Notwithstanding the provisions of subsection (b), any person may be permitted to  perform electrical work upon such person's own property, except property intended for rent, sale or  gift provided such person first makes application for and obtains a permit from the Electrical Inspector  to do the specific work contemplated and provided the applicant satisfies the Electrical Inspector that  applicant is competent to perform the work for which a permit is requested in a manner which will meet  all statutory and ordinance requirements. If so satisfied, the Electrical Inspector shall issue a permit to the applicant personally to perform the work for which application was made. Such permit shall extend to the applicant only and shall not authorize the applicant to employ the services of any other person to assist unless such other person is a qualified contractor. The permit granted the applicant shall automatically expire upon completion of the work for which application was made and the permit issued. All work done under such permit shall be subject to regular electrical inspection requirements and fees and shall be required to satisfy all statutory and ordinance requirements and regulations applicable to such work.

(d) *Annual permits.* In lieu of an individual permit for each installation or alteration, an annual permit shall, upon application therefor, and payment of a fee of $10.00, be issued to any person employing one or more electricians for the installation and maintenance of electric wiring, devices, appliances, and equipment on premises owned or occupied by the applicant except property intended for rent, sale, or gift. The application for such annual permit shall be made in writing to the Electrical Inspector and shall contain a description of the premises within which work is to be done under permit. The person to whom an annual permit is issued shall keep a record of all pertinent electric wiring, devices, appliances, and equipment installed under the permit, and the Electrical Inspector shall have access to such record. Each annual permit shall expire on December 31 of the year in which it was issued. At regular  periods, the Electrical Inspector shall visit all premises where work may be done under annual permits  and shall inspect all electric wiring, devices, appliances and equipment installed under such a permit  since the date of such inspector's last previous inspection, and shall issue a certificate of approval for  such work as is found to be in conformity with the provisions of this article, after the fee required has  been paid. Upon inspection, if the installation is not found to be fully in conformity with the provisions of this article, the Electrical Inspector shall at once forward to the permit holder a written notice stating the defects which have been found.

(e) *Inspection prior to concealment.* When any part of a wiring installation is to be hidden from view by  the permanent placement of parts of the building, the person installing the wiring shall notify the  Electrical Inspector and such parts of the wiring installation shall not be concealed until they have been  inspected and approved by the Electrical Inspector, or until 24 hours, exclusive of Saturdays, Sundays  and holidays, have elapsed from the time of such notification; provided, that, on large installations,  where the concealment of parts of the wiring proceeds continuously, the person installing the wiring  shall give the Electrical Inspector due notice and inspections shall be made periodically during the  progress of the work.

(f) *Inspection upon completion of installation.* Upon completion of any installation for which a permit and inspection is required, it shall be the duty of the person installing same to notify the Electrical Inspector, who shall inspect the installation within 24 hours of the time such notice is given or as soon thereafter as practicable.

(g) *Certificates of approval.* Where the Electrical Inspector finds the installation to be in conformity with the provisions of the public safety laws of the state governing electrical wiring installations and materials and of this article, such inspector shall issue a certificate of approval in duplicate, one for the utility furnishing the electrical service and one for the property owner. When a certificate of approval is issued authorizing the connection and use of temporary work, such certificate shall be issued to expire at a time to be stated therein and shall be revocable by the Electrical Inspector for cause. A preliminary

certificate of approval may be issued authorizing the connection and use of certain specific portions of an incomplete installation. Such certificate shall be revocable at the discretion of the Electrical Inspector.

(h) *Fee for extra inspections.* Additional inspections or inspection trips made by any Electrical Inspector or the Inspector's assistant, made necessary through the failure of any Electrical Contractor or electrician in charge of work to specify location of work, or failure to install wiring or apparatus in proper manner, or to otherwise create conditions making such additional inspections or trips necessary, are hereby designated "extra electrical inspections." Nothing herein shall be construed to require extra fees for the several inspections made necessary in the regular order of electrical construction work.

Secs. 4-47—4-49. - Reserved.

ARTICLE V. - MINIMUM HOUSING CODE

**State Law reference—** Minimum housing standards, G.S. § 160A-441 et seq.

Sec. 4-50. - Finding; purpose.

Pursuant to G.S. § 160A-441, it is hereby declared that there exists in the Town of Glen Alpine 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 other conditions  rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and  morals, and otherwise inimical to the welfare of the residents of the Town.

In order to protect the health, safety and welfare of the residents of the Town as authorized by Part 6 of Article 19, Chapter 160A of the General Statutes, 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 G.S. § 160A-444.

(Ord. of 12-4-97, § 1)

Sec. 4-51. - Definitions.

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

*Basement* shall mean a portion of a dwelling which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

*Cellar* shall mean a portion of a dwelling which is located partly or underground having an inadequate access to light and air from windows located partly or below the level of the adjoining ground.

*Certificate of occupancy* shall mean a certificate which is issued once a dwelling has been certified to meet the requirements of the housing code. A temporary certificate of occupancy may be issued for the temporary or partial occupancy of a dwelling unit for a specified period.

*Deteriorated* shall mean that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all the minimum standards established by this article at a cost not more than 50 percent of its value, as determined by finding of the Inspector.

*Dilapidated* shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered, or improved to comply with all the minimum standards established by this article except at a cost more than 50 percent of its value, as determined by finding of the Inspector.

*Dwelling* shall mean any building, structure, 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 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* shall mean 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* shall mean 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 methods approved by the Inspector.

*Garbage* shall mean the organic waste resulting from the handling, preparation, cooking, and consumption of food.

*Gender* shall mean words having a masculine gender shall include the feminine and neuter genders.

*Habitable room* shall mean 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* shall mean 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.

*Inspector* shall mean the Codes Inspector of the Town or any authorized agent of the Town.

*Insulation* shall mean a material which has been manufactured to meet the specified R-value criteria when installed to the manufacturer's specifications.

*Junk* shall mean any item, including but not limited to, deteriorated, or used furniture, appliances, machinery, equipment, building materials, automobile parts, tires, or other items which are either in a wholly or partially deteriorated, rusted, wrecked, junked, dismantled, or inoperative condition.

*Littered condition* shall mean all discarded manmade materials, including but not limited to, junk, waste materials, building materials, trash, garbage, and other refuse scattered, cast, placed or deposited throughout a yard or yards, to appear as a haphazard accumulation of litter.

*Multiple dwelling* shall mean any dwelling containing more than two dwelling units.

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

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

*Outdoor storage* shall mean the accumulation of any material which is not enclosed within the dwelling unit or approved storage building.

*Owner* shall mean any person who alone, jointly, or severally with others:

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

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

*Party or parties in interest* shall mean all persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

*Person* shall mean any individual, corporation, firm, partnership, association, organization, or other legal entity.

*Plumbing* shall mean and include all 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, bathtubs, shower baths, installed  clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together  with all connections to water, sewer or gas lines.

*Public authority* shall mean any officer who oversees any department or branch of the government of the Town of Glen Alpine or of Burke County or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the Town.

*Rooming house* shall mean any dwelling, or that part of the dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not spouses, son or daughter, mother or father, or brother of the owner or operator.

*Rooming unit* shall mean 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* shall mean organic or non-organic waste materials. The term shall include, for example but not by way of limitation, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard

trimmings, tin cans, metals, mineral matter, glass and dust, automobile parts, abandoned vehicles, non-operable vehicles, refrigerators, stoves.

*Supplied* shall mean paid for, furnished, or provided by, or under the control of, the owner or operator.

*Temporary housing* shall mean 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 30 consecutive days.

*Unfit for human habitation* shall mean that 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 standards of fitness or one or more of the requirements established by this article. *Words having certain meaning.* Whenever the words "dwelling, dwelling unit, rooming houses, rooming unit, premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof".

Sec. 4-52. - Minimum standards of fitness for dwellings and dwelling units.

(a) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all the minimum standards of fitness for human habitation and all the requirements of sections 4-53 through 4-58 herein.

(b) No person shall occupy as owner-occupant, let to another for occupancy, or use as a human habitation, any dwelling or dwelling unit which does not comply with all the minimum standards of fitness for human habitation and all the requirements of sections 4-53 through 4-58 herein.

Sec. 4-53. - Minimum standards for structural condition.

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

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

(2) Floors or roofs shall have adequate supporting members and strength to be safe for the purpose used.

(3) Foundations, foundation walls, piers or other foundation supports.

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

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

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

(7) The roof, flashings, guttering, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained to weather and watertight.

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

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

(10) Insulation shall be installed in the attic or space immediately above each habitable room. Such insulation shall have a minimum R-19 value.

Sec. 4-54. - Minimum standards for basic plumbing, heating and electrical equipment and facilities. (a) *Plumbing system.*

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

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold and hot water. All water shall be supplied to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the state plumbing code and shall be maintained in a state of good repair and in good working order.

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

(b) *Heating system.* Every dwelling and dwelling unit shall have facilities providing heat in accordance with the following:

(1) *Central and electric heating systems.* Every central, solar, or electric heating system shall be of sufficient Town to heat all habitable rooms, bathrooms, and water closet compartments in every dwelling unit to which it relates to a minimum temperature of 70 degrees Fahrenheit measured at a point three feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where a central, solar, or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 70 degrees Fahrenheit measured three feet above the floor during ordinary winter conditions.

(c) *Electrical system.*

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the state electrical code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric 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 floor or wall-type electric convenience receptacles.

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

(3) 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 state electrical code.

(4) Every dwelling shall have a smoke detector connected to its electrical system. Dwellings with multiple stories shall have detectors installed on each level that has room(s) for sleeping. Such devices shall be installed to meet the N.C. Building Code requirements for smoke detectors (The Inspector may allow the use of battery powered devices until January 1, 2000). Battery-operated smoke detectors are permissible in existing dwellings.

Sec. 4-55. - Minimum standards for ventilation.

(a) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent 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 feet from the  window and extend to a level above that of the ceiling of the room, such a window shall not be deemed  to face directly to the outdoors and shall not be included as contributing to the required minimum total  window area. Whenever the only window in a room is a skylight-type window in the top of such room the total window area of such skylight shall equal at least 15 percent of the total floor area of such room.

(b) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will ventilate the room. The total openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area 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 ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

Sec. 4-56. - Minimum standards for space, use and location.

(a) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state residential building code. In no case shall any dwelling occupancy exceed one person for each 150 square feet for the first 900 square feet and one person for each 200 square feet of gross building area over 900 square feet. Gross building area is measured from the exterior walls of the dwelling. In every dwelling unit and in every rooming unit, every room occupied for sleeping  purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied  for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for  each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant  under 12 years of age.

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

(c) *Floor area calculation.* Floor area shall be calculated based on habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4½ feet 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 watertight;

(2) The total window area, total openable window area and ceiling height are 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.

Sec. 4-57. - Minimum standards for safe and sanitary maintenance.

(a) *Exterior foundation walls and roofs.* 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 ceilings.* Every floor, interior wall and ceiling shall be rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(c) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be 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 any 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 good sound condition and good repair.

(e) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be 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 to obtain thorough 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 the state residential building code.

Sec. 4-58. - Minimum standards for 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 outdoor 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. If a central HVAC system is provided, then screens and storm doors are not required.

(b) *Rodent control.* When danger of infestation is apparent to the Building Inspector, 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 approved 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 dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two 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 the Town ordinances, and the 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 the Town of Glen Alpine ordinances.

Sec. 4-59. - Responsibility 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 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.

(Note: The respective responsibilities of property owners and tenants under rental agreements for dwelling units are further enumerated in State Law, G.S. Chapter 42, Article 5.)

Sec. 4-60. - Minimum standards of maintenance and cleanliness for residential property. (a) The owner and/or occupant of any dwelling unit shall exercise reasonable diligence at all times to  keep exterior premises clean of glass, bottles, waste paper, wrapping paper, paper napkins, cartons,  package containers, and other used or waste materials intentionally or unintentionally scattered,  discarded, thrown, or haphazardly left on such premises, and to prevent same from drifting or blowing  to adjoining premises by removing such waste or ensuring that same is placed in approved garbage  or refuse containers for collection by the Town.

(b) Storage of junk or other items on residential lots to create a littered condition shall not be permitted, except in conformity with the standards for storage in this section.

Sec. 4-61. - Minimum standards for posting numbers on structures.

The following code is adopted to further health, safety, and welfare of the citizens of Glen Alpine by affording EMS, Police, Fire, and other entities with visible numbers to assist in provision of services.

(1) *Time constraints.* Existing structures shall be posted within 60 days after notification of the assignment or change of structure number. Structures under construction at the time of assignment shall be posted within 90 days after notification and assignment of numbers. All assigned numbers shall be posted in compliance with the provisions herein. It shall be the responsibility of the owner of any structure to obtain and post structure numbers in accordance with the provisions of this section.

(2) *Specifications for numbers.* All structure numbers shall be constructed of a durable material and shall be reflective, at least 3 inches tall, and be no further than 10 feet of the entrance of the residence.

Residential structure or unit numbers shall be a minimum size of four inches in height. All structure numbers other than residential shall be a minimum of four inches in height. A number larger than the minimum may be required in areas where the minimum size provides inadequate identification.

(3) *Posting locations.* All numerical identifications must be clearly visible and easily identifiable without obstruction of view.

Dwellings or businesses located more than 100 feet from the roadway and/or not visible shall be required to post reflective numbers at the entrance and driveway and shall be located in close proximity to the front door of the entranceway.

Posting height shall be a minimum of five feet when attached to a dwelling near the entranceway.

The height of the post shall be three feet for all entrances of private drives requiring numerical posting detached from the dwelling or structure. A mailbox placed at the entranceway may also be accepted if placed at the entranceway to the property.

(4) *Maintenance of structure numbers.* All posted numbers assigned shall be always maintained in compliance with the provisions of this article. Structure numbers and unit designators viewed from the roadway shall not be obstructed from view.

(5) *Assignment of structure numbers.* Structure numbers, both private and business, shall be assigned by the Town through the Planning Department.

Sec. 4-62. - Powers and duties of Inspector.

The Inspector is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. The Inspector is authorized to exercise such powers as may be necessary or convenient to conduct and effectuate the purpose and provisions of this article. The Inspector or designee shall have the following powers and duties:

(1) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the Town of Glen Alpine, to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this article with respect to the repair, closing or demolition of such dwellings and dwelling units.

(2) Housing inspections will be on a request and/or complaint basis.

(3) 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.

(4) To keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed.

(5) To administer oaths and affirmations, examine witnesses and receive evidence.

(6) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with Section 4-43 above and state law and shall be made in such manner as cause the least possible inconvenience to the persons in possession.

(7) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in conducting the purposes of this article, and to delegate any of his functions and powers to such officers, agents, and employees.

(8) To perform such other duties as may be prescribed herein or by the governing body of the Town of Glen Alpine.

Sec. 4-63. Standards for Enforcement.

The Inspector shall use the following standards for enforcement.

(a) Every abandoned structure within the Town shall be deemed in violation of this Ordinance whenever such structure constitutes a hazard to the health, safety, or welfare of the Town citizens because of:

1. The attraction of insects or rodents;

2. Conditions creating a fire hazard;

3. Dangerous conditions constituting a threat to children; or

4. Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(b) In making the preliminary determination of whether an abandoned structure is in violation of this Ordinance, the Inspector may, by way of illustration, and not limitation, consider the presence or absence of the following conditions:

1. Holes or cracks in the structure’s floors, walls, ceilings, or roof which might attract rodents and insects, or become breeding places for rodents or insects;

2. The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents or insects;

3. Violations of the State Building Code, the State Electrical Code, the Burke County Building Code, and the Fire Prevention Code which constitute a fire hazard in such structure;

4. The collection of garbage, rubbish, or combustible material which constitute a fire hazard in such structure;

5. The use of such structure or nearby grounds or facilities by children as a play area;

6. Violations of the State Building Code or the Burke County Building Code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and

7. Repeated use of such structure by transients and vagrants in the absence of sanitary facilities, for living, sleeping, cooking, and eating

8. The structure becomes a negative factor to the value of nearby property

9. Vacant structures for 90 days.

Sec. 4-64. - Inspections; duty of owners and occupants.

(a) For the purpose of making inspections, the Inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units, and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house or rooming unit or the person in charge thereof shall give the Inspector free access to such dwelling and its premises at all reasonable times for the purpose of such inspection, examination, and survey.

(b) Every occupant of a dwelling, dwelling unit, rooming house, or rooming 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 issued pursuant to the provisions  of this article.

(Note: When permission to inspect a dwelling or its premises is denied, the Inspector must obtain a warrant to inspect. G.S. § 15-27.2 provides for the issuance of warrants for the conduct of inspections authorized by law. The N.C. Court of Appeals, in In Re Dwelling, 24 N.C. App. 17 (1974), has held that the consent of the tenant-occupant who was in actual possession and control of the premises was sufficient to authorize an inspection without a warrant, notwithstanding the fact that the owner had objected to the warrantless search. When faced with a situation where permission to inspect is denied, inspectors are advised to seek the advice of the Town Attorney.)

Sec. 4-65. - Procedure for enforcement.

(a) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Inspector by a Public  Authority or by at least five residents of the Town charging that any dwelling or dwelling unit is unfit for  human habitation, or whenever it appears to the Inspector, upon inspection that any dwelling or  dwelling unit is unfit for human habitation he shall, if his preliminary investigation discloses a basis for  such charges, issue and cause to be served upon the owner or any parties in interest in such dwelling  or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held  before the Inspector at a place therein fixed, not less than ten nor more than 30 days after the serving  of the complaint The owner or any 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 signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence. Formal rules of evidence shall not be controlling in hearings before the Inspector.

(b) *Procedure after hearing.* After such notice and hearing, the Inspector 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.

If the Inspector 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 dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period, not to exceed 90 days. Complaints or orders issued by the Inspector shall be served upon persons  either personal or by registered or by certified mail; but, if the whereabouts of such persons are unknown  and the same cannot be ascertained by the Building Inspector in the exercise of reasonable diligence, the  Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such  person may be made by publication in the manner prescribed in the North Carolina rules of Civil  Procedure. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

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.

If the Inspector 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 90 days.

(c) *Failure to comply with order.* Violation of any provision of the code shall subject the offender to a civil penalty as specifically set out in the Section 1-6 of this Code.

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

(2) *In rem remedy.* After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit  to comply with an order of the Inspector within the time specified therein, if injunctive relief has  not been sought or has not been granted as provided in the preceding subsection (1), the  Inspector shall submit to the governing body of the Town of Glen Alpine an ordinance ordering  the Inspector 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 Inspector, and pending  removal or demolition, to place a placard on such dwelling as provided by G.S. § 160A-443 and  Section 4-67 and Section 4-73 herein.

(d) *Appeals from order of inspector.* An appeal from any decision or any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order and shall be taken by filing with the Inspector and with the Zoning 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 Inspector 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 Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the Inspector 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 Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason  of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of  his requirement would cause imminent peril to life or property, in which case the requirement shall not  be suspended except for due cause shown upon not less than one day's written notice to the Inspector,  by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and subsection  (e) below.

The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed

from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have  power also in passing upon appeals, in any case where there are practical difficulties or unnecessary  hardships in the way of carrying out the strict letter of the ordinance to adapt the application of the  ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed,  public safety and welfare secured, and substantial justice done.

Every decision of the Board shall be subject to review by proceedings in certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(e) *Petition to superior court by owner.* Any person aggrieved by an order issued by the Inspector, or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

Sec. 4-66. - Methods of service of complaints and orders.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered mail. If the whereabouts of such persons are unknown and the same cannot be ascertained by  the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect,  and the serving of such complaint or order upon such person may be made by publishing the same at  least once no later than the time at which personal service would be required under the provisions of this  article in a newspaper having general circulation in the Town of Glen Alpine. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

Sec. 4-67. - In rem action by Inspector; placarding.

After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued  pursuant to the provisions of this article, and upon adoption by the Board of Aldermen of the Town of  Glen Alpine of an ordinance authorizing and directing him to do so, as provided by G.S. § 160A-443(5)  and subsection 4-66(c) herein, the Inspector 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.

Each ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

Sec. 4-68. - Costs, a lien on premises.

As provided by G.S. § 160A-446 (6), the cost of any repairs, alterations, or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to section 4-67 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, having priority, and be collected in the same manner as the lien for special assessments established by Article 10, Chapter 160A of the General Statutes.

Sec. 4-69. - Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power  of the Town of Glen Alpine to define and declare nuisances and to cause their abatement by summary  action or otherwise, or to enforce this article by criminal process as authorized by G.S. § 14-4 and section  4-71 below, and the enforcement of any remedy provided herein shall not prevent the enforcement of any  other remedy or remedies provided herein or in other ordinances or laws.

Sec. 4-70. - Zoning Board of Adjustment to hear appeals.

All appeals which may be taken from decisions or orders of the Inspector pursuant to subsection 4- 66(d) shall be heard and determined by the Zoning Board of Adjustment. As the appeals body the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by subsection 4-66(d) and shall keep an accurate journal of all its proceedings.

If the Zoning Board of Adjustment consists of more than five members, the Chairman shall designate five members to hear appeals under this article.

Sec. 4-71. - Conflict with other provisions.

In the event any provision, standard, or requirement of this article is found to conflict with any provision of any other ordinance or code of the Town of Glen Alpine, 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 the Town shall prevail.

Sec. 4-72. - Violations; penalty.

(a) Any person, firm, or corporation violating any provision of this Ordinance shall be subject to the imposition by citation of a Civil Penalty for each such violation in the amount of One Hundred Dollars ($100.00) which shall be paid in full within seventy-two (72) hours of the service of the citation in accordance with North Carolina General Statute § 160A-175.

(b) Any person, firm, or corporation violating any provision of this Ordinance shall further be subject to Glen Alpine enforcing the provisions of this Ordinance by applying to a court of competent jurisdiction in the General Court of Justice for equitable relief including, but not limited to mandatory or prohibitory injunctions and/or orders in accordance with North Carolina General  Statute § 160A-175.

(c) Each day of violation shall be considered a separate and distinct offense for the purpose of the enforcement of this Ordinance.

(d) Failure to make payment and to correct the violation within the Seventy-Two (72) hour period will result in an additional fine of Twenty-five Dollars ($25.00) per day for a total of Fifteen (15) days. The penalty and delinquent charge may be recovered by the Town in a civil action. (e) The violator may be charged as provided in General Statutes § 14.4.

Sec. 4-73. - Inspections of unsafe buildings.

At any time where the Town of Glen Alpine Inspector has obtained certification to act as a building inspector, the following codes shall be enforced to further protect the health, safety, and welfare of the citizens of Glen Alpine by allowing the building inspector to placard unsafe buildings.

(1) *Periodic inspections.* The inspection department shall make periodic inspections, subject to the council’s directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in structures within its territorial jurisdiction. In addition, it shall make inspections when it has reason to believe that such conditions may exist in a particular structure. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials.

(2) *Defects in buildings to be corrected.* When a local inspector finds any defects in a building, or  finds that the building has not been constructed in accordance with the applicable State and local  laws, or that a building because of its condition is dangerous or contains fire hazardous  conditions, it shall be his duty to notify the owner or occupant of the building of its defects,  hazardous conditions, or failure to comply with law. The owner or occupant shall each

immediately remedy the defects, hazardous conditions, or violations of law in the property he owns.

(3) *Unsafe buildings condemned.*

a. *Residential building.* Every building which shall appear to the inspector to be especially  dangerous to life because of its liability to fire or because of bad condition of walls,  overloaded floors, defective construction, decay, unsafe wiring or heating system,  inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector  shall affix a notice of the dangerous character of the structure to a conspicuous place on the  exterior wall of said building.

b. *Nonresidential building or structure.* An inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

1. It appears to the inspector to be vacant or abandoned.

2. It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire, or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

If an inspector declares a nonresidential building or structure to be unsafe, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this subsection, the term "community development target area" means an area that has characteristics of a development zone under G.S. § 105-129.3A, a "nonresidential development area" under G.S. § 160A 503(10), or an area with similar characteristics designated by the Town council as being in special need of revitalization for the benefit and welfare of its citizens.

(4) *Removing notice from condemned building.* If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any municipality and that states the dangerous character of the building or structure, he shall be guilty of a Class 1 misdemeanor.

(5) *Action in event of failure to take corrective action.* If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. § 160A-426 shall fail to take prompt corrective action, the local inspector shall give him written notice, by certified or registered mail to his last known address or by personal service,

a. That the building or structure is in a condition that appears to meet one or more of the following conditions:

1. Constitutes a fire or safety hazard.

2. Is dangerous to life, health, or other property.

3. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.

4. Tends to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

b. That a hearing will be held before the inspector at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

c. That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the

hearing is published in a newspaper having general circulation in the Town at least once not later than one week prior to the hearing.

(6) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed in G.S. § 160A-428, the inspector shall find that the building or structure is in a condition that constitutes  a fire or safety hazard or renders it dangerous to life, health, or other property, he shall make an  order in writing, directed to the owner of such building or structure, requiring the owner to remedy  the defective conditions by repairing, closing, vacating, or demolishing the building or structure or  taking other necessary steps, within such period, not less than 60 days, as the inspector may  prescribe; provided, that where the inspector finds that there is imminent danger to life or other  property, he may order that corrective action be taken in such lesser period as may be feasible.

(7) *Appeal; finality of order if not appealed.* Any owner who has received an order under G.S. § 160A-429 may appeal from the order to the Town council by giving notice of appeal in writing to the inspector and to the Town clerk within ten days following issuance of the order. In the absence of an appeal, the order of the inspector shall be final. The Town Board of Aldermen shall hear and render a decision in an appeal within a reasonable time. The Town council may affirm, modify, and affirm, or revoke the order.

(8) *Failure to comply with order.* If the owner of a building or structure fails to comply with an order issued pursuant to G.S. § 160A-429 from which no appeal has been taken or fails to comply with an order of the Town council following an appeal, he shall be guilty of a Class 1 misdemeanor.

(9) *Civil and equitable enforcement.*

a. *Civil enforcement.* Whenever any violation is denominated a misdemeanor under the provisions of this part, the Town, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

b. *Equitable enforcement.* In the case of a nonresidential building or structure declared unsafe under G.S. § 160A-426(b), a Town may, in lieu of acting under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the Town in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in article II of this chapter. If the building or structure is removed or demolished by the Town, the Town shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The Town shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

c. *Power of Town to define and declare nuisances.* Nothing in this section shall be construed to impair or limit the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

(10) *Records and reports.* The inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspection’s made, defects found, certificates of compliance granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the North Carolina Department of Cultural Resources. Periodic reports shall be submitted to the Town Board of Aldermen and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require.

(11) *Appeals in general.* Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the state building code or other state building laws shall be taken to the Commissioner of Insurance or his designee or other official specified in G.S. § 143-139, by filing a written notice with him and with the inspection

department within a period of ten days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

Secs. 4-74, 4-79. - Reserved.

ARTICLE VI. – STATE OF NORTH CAROLINA MECHANICAL CODE

Sec. 4-80. - Purpose of article.

The purpose of this article is to establish procedures to require the issuance of permits and making of inspections under this title of the State of North Carolina Building Code.

Sec. 4-81. - State of North Carolina Mechanical Code adopted by reference.

The State of North Carolina Mechanical Code, 2018 edition and subsequent editions, supplements, or amendments, as adopted and issued by the North Carolina Building Code Council and the North Carolina Department of Insurance shall be in effect as hereinafter modified in the Town and shall be applicable in every building and every property.

Sec. 4-82. - Inspector.

The Building Inspector shall perform all duties of, and function as, the Inspector under this article. Sec. 4-83. - Reserved.

Secs. 4-84—4-89. - Reserved.

ARTICLE VII. - MOBILE HOMES, MODULAR DWELLING UNITS AND OTHER FACTORY-BUILT STRUCTURES

**State Law reference—** Municipal authority to adopt floodway regulation ordinances, G.S. § 160A-458.1; local government authority to regulate uses in flood hazard areas and grant permits, G.S. § 143.215.54.

Sec. 4-90. - Regulations adopted.

There is hereby adopted by reference those regulations governing mobile homes, modular dwelling units and other factory-built structures, 1979 edition, published by the North Carolina Department of Insurance to provide uniform standards for mobile homes, and promulgated for the protection of health, life and safety of persons and property. Copies of such regulations shall be always kept on file in the office of the Building Inspector.

**State Law reference—** Uniform Standards Code for Mobile Homes, G.S. § 143-144 et seq. Secs. 4-91—4-99. - Reserved.

ARTICLE VIII. - FLOOD DAMAGE PREVENTION

DIVISION 1. - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES Sec. 4-100. - Statutory authorization.

The Legislature of the State of North Carolina has in G.S. Pt. 6, Art. 21 of Ch. 143; Pt. 3, 5, and 8 of Art. 19 of Ch. 160A; and Art. 8 of Ch. 160A, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Aldermen of the Town of Glen Alpine, North Carolina, does ordain as follows: (Ord. No. 2010-005, Art. 1 § A, 8-6-09)

Sec. 4-101. - Findings of fact.

(a) The flood prone areas within the authority of the Town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental

services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

(Ord. No. 2010-005, Art. I, § B, 8-6-09)

Sec. 4-102. - Statement of purpose.

It is the purpose of this article to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which participate in the accommodation of floodwaters;

(4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters, or which may increase flood hazards to other lands.

Sec. 4-103. - Objectives.

The objectives of this article are to:

(1) Protect human life, safety, and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and undertaken at the expense of the public;

(4) Minimize prolonged business losses and interruptions;

(5) Minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are in flood prone areas;

(6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(7) Ensure that potential buyers are aware that property is in a special flood hazard area.

Secs. 4-104—4-110. - Reserved.

DIVISION 2. - DEFINITIONS

Sec. 4-111. - Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

*Accessory structure (appurtenant structure)* means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

*Addition (to an existing building)* means an extension or increase in the floor area or height of a building or structure.

*Appeal* means a request for a review of the Floodplain Administrator's interpretation of any provision of this article.

*Area of shallow flooding* means a designated zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where the Town flow may be evident.

*Area of special flood hazard* see "special flood hazard area (SFHA)."

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

*Base flood elevation (BFE)* means a determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a "special flood hazard area," it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "freeboard,” establishes the "regulatory flood protection elevation."

*Basement* means any area of the building having its floor subgrade (below ground level) on all sides. *Building* sees "structure."

*Chemical storage facility* means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

*Disposal* means, as defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping,  spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any  constituent part of the solid waste may enter the environment or be emitted into the air or discharged into  any waters, including groundwaters.

*Elevated building* means a no basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*Encroachment* means the advance or infringement of uses, fill, excavation, buildings, structures, or development into a floodplain, which may impede or alter the flow of a floodplain.

*Existing manufactured home park or manufactured home subdivision* means a manufactured home  park or subdivision for which the construction of facilities for servicing the lots on which the manufactured  homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets,  and either final site grading or the pouring of concrete pads) was completed before the initial effective  date of the floodplain management regulations adopted by the community.

*Flood* or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood Boundary and Floodway Map (FBFM)* means an official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are

delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

*Flood Hazard Boundary Map (FHBM)* means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as zone A.

*Flood insurance* means the insurance coverage provided under the National Flood Insurance Program.

*Flood Insurance Rate Map (FIRM)* means an official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

*Flood insurance study (FIS)* means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

*Flood prone area* see "floodplain."

*Flood zone* means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

*Floodplain* means any land area susceptible to being inundated by water from any source.

*Floodplain Administrator* is the individual appointed to administer and enforce the floodplain management regulations.

*Floodplain development permit* means any type of permit that is required in conformance with the provisions of this article, prior to the commencement of any development activity.

*Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, preserving, and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

*Floodplain management regulations* means this article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

*Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

*Freeboard* means the height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater that the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The base flood elevation (BFE) plus the freeboard establishes the "regulatory flood protection elevation."

*Functionally dependent facility* means a facility which cannot be used for its intended purpose unless it is near water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

*Hazardous waste management facility* means, as defined in G.S. § 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

*Highest adjacent grade (HAG)* means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

*Historic structure* means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(3) Individually listed on a local inventory of historic landmarks in communities with a "certified local government (CLG) program;" or

(4) Certified as contributing to the historical significance of a historic district designated by a community with a "certified local government (CLG) program."

Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

*Lowest adjacent grade (LAG)* means the elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built to render the structure in violation of the applicable non elevation design requirements of this article.

*Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*Market value* means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.

*Mean sea level* means, for purposes of this article, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

*New construction* means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

*Non encroachment area* means the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

*Post-FIRM* means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

*Pre-FIRM* means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

*Principally above ground* means that at least 51 percent of the actual cash value of the structure is above ground.

*Public safety* and/or *nuisance* means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

*Recreational vehicle (RV)* means a vehicle, which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection; (3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Reference level* means the top of the lowest floor for structures within special flood hazard areas designated as zone A1-A30, AE, A, A99 or AO.

*Regulatory flood protection elevation* means the "base flood elevation" plus the "freeboard." In “special flood hazard areas" where base flood elevations (BFEs) have been determined, this elevation shall be the BFE with one foot of freeboard. In "special flood hazard areas" where no BFE has been established, this elevation shall be at least one foot above the highest adjacent grade.

*Remedy a violation* means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways those impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance, or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

*Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

*Salvage yard* means any nonresidential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances, and related machinery.

*Solid waste disposal facility* means any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

*Solid waste disposal site* means, as defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

*Special flood hazard area (SFHA)* means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined in section 4-122 of this article.

*Start of construction* means substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land  preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or  walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of  temporary forms; nor does it include the installation on the property of accessory buildings, such as  garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

*Substantial damage* means damage of any origin sustained by a structure during anyone-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial

improvement." Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

*Variance* means a grant of relief from the requirements of this article.

*Violation* means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in divisions 4 and 5 is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation (WSE)* means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

*Watercourse* means a lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Secs. 4-112—4-120. - Reserved.

DIVISION 3. - GENERAL PROVISIONS

Sec. 4-121. - Lands to which this article applies.

This article shall apply to all special flood hazard areas within the authority, including extra territorial jurisdictions (ETJs), of Town of Glen Alpine and within the authority of any other community whose governing body agrees, by resolution, to such applicability.

Sec. 4-122. - Basis for establishing the special flood hazard areas.

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its flood insurance study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Burke County dated September 5, 2007, which are adopted by reference as hereinafter modified and declared to be a part of this article.

Sec. 4-123. - Establishment of floodplain development permit.

A floodplain development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of section 4-122 of this article.

Sec. 4-124. - Compliance.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this article and other applicable regulations.

Sec. 4-125. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 4-126. - Interpretation.

In the interpretation and application of this article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 4-127. - Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the Town or by any officer or employee thereof for any flood damages that result from reliance on this article, or any administrative decision lawfully made hereunder.

Sec. 4-128. - Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Glen Alpine from taking such other lawful action as is necessary to prevent or remedy any violation.

Secs. 4-129—4-140. - Reserved.

DIVISION 4. - ADMINISTRATION

Sec. 4-141. - Designation of Floodplain Administrator.

The Town Clerk’s designee, hereinafter referred to as the "Floodplain Administrator," is hereby appointed to administer and implement the provisions of this article.

Sec. 4-142. - Floodplain development application, permit and certification requirements. (a) *Application requirements.* Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

a. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

b. The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in section 4-122, or a statement that the entire lot is within the special flood hazard area;

c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in section 4-122;

d. The boundary of the floodway(s) or non-encroachment area(s) as determined in section 4- 122;

e. The base flood elevation (BFE) where provided as set forth in section 4-122; section 4-143; section 4-164;

f. The old and new location of any watercourse that will be altered or relocated because of proposed development; and

g. The certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:

a. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

b. Elevation in relation to mean sea level to which any nonresidential structure in zone AE, A or AO will be floodproofed; and

3. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(3) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

(4) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include but are not limited to:

a. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with subsection 4-162(4) c. when solid foundation perimeter walls are used in zones A, AO, AE, and A1-30.

(5) Usage details of any enclosed areas below the lowest floor.

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(7) Certification that all other local, state, and federal permits required prior to floodplain development permit issuance have been received.

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of subsections 4-162(6) and (7) of this article are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capaTown of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(b) *Permit requirements.* The floodplain development permit shall include, but not be limited to: (1) A description of the development to be permitted under the floodplain development permit.

(2) The special flood hazard area determination for the proposed development in accordance with available data specified in section 4-122.

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities. (4) The regulatory flood protection elevation required for the protection of all public utilities. (5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(7) The flood openings requirements, if in zones A, AO, AE, or A1-30.

(c) *Certification requirements.*

(1) *Elevation certificates.*

a. An elevation certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be caused to deny a floodplain development permit.

b. An elevation certificate (FEMA Form 81-31) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be caused to issue a stop-work order for the project.

c. A final as-built elevation certificate (FEMA Form 81-31) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be caused to withhold the issuance of a certificate of compliance/occupancy.

(2) *Floodproofing certificate.* If nonresidential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be caused to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be caused to withhold the issuance of a certificate of compliance/occupancy.

(3) If a manufactured home is placed within zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of subsection 4-162(3) b.

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration  or relocation; a professional engineer's certified report on the effects of the proposed project on  the flood-carrying capacity of the watercourse and the effects to properties located both upstream  and downstream; and a map showing the location of the proposed watercourse alteration or  relocation shall all be submitted by the permit applicant prior to issuance of a floodplain  development permit.

(5) *Certification exemptions.* The following structures, if located within zone A, AO, AE, or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items a. and b. of this subsection:

a. Recreational vehicles meeting requirements of subsection 4-162(6) a.;

b. Temporary structures meeting requirements of subsection 4-162(7); and

c. Accessory structures less than 150 square feet meeting requirements of subsection 4-162(8).

Sec. 4-143. - Duties and responsibilities of the Floodplain Administrator.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this article have been satisfied.

(2) Review all proposed development within special flood hazard areas to assure that all necessary local, state, and federal permits have been received.

(3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of section 4-166 are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and improved structures, in accordance with the provisions of subsection 4-142(c).

(7) Obtain actual elevation (in relation to mean sea level) to which all new and improved structures and utilities have been floodproofed, in accordance with the provisions of subsection 4-142(c).

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of subsection 4-142(c).

(9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of subsection 4-142(c) and subsection 4-162(2).

(10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(11) When base flood elevation (BFE) data has not been provided in accordance with the provisions of section 4-122, obtain, review, and utilize any BFE data, along with floodway data

or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to subsection 4-164(2) b., to administer the provisions of this article.

(12) When base flood elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of section 4-122, obtain, review, and utilize any floodway data or non-encroachment area data available from a federal, state, or other source to administer the provisions of this article.

(13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation (BFE), advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

(14) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progress, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(18) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(19) Follow through with corrective procedures of section 4-144.

(20) Review, provide input, and make recommendations for variance requests.

(21) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and other official flood maps and studies adopted in accordance with the provisions of section 4-122 of this article, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

Sec. 4-144. - Corrective procedures.

(a) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(b) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of the floodplain management regulations;

(2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(c) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the  Floodplain Administrator shall find that the building or development is in violation of the flood damage  prevention ordinance, he or she shall issue an order in writing to the owner, requiring the owner to  remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180  calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(d) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify, and affirm, or revoke the order.

(e) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(Ord. No. 2010-005, Art. 4, § D, 8-6-09)

Sec. 4-145. - Variance procedures.

(a) The Board of Adjustment as established by the Town, hereinafter referred to as the "appeal board,” shall hear and decide requests for variances from the requirements of this article.

(b) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in G.S. Ch. 7A.

(c) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

(2) Functionally dependent facilities if determined to meet the definition as stated in division 2 of this article, provided provisions of subsections 4-145(i)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(3) Any other type of development, provided it meets the requirements of this section.

(d) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:

(1) The danger that materials may be swept onto other lands to the injury of others; (2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under division 2 of this article as a functionally dependent facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(e) A written report addressing each of the above factors shall be submitted with the application for a variance.

(f) Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.

(g) Any applicant to whom a variance is granted shall be given written notice specifying the difference  between the base flood elevation (BFE) and the elevation to which the structure is to be built and that  such construction below the BFE increases risks to life and property, and that the issuance of a  variance to construct a structure below the BFE will result in increased premium rates for flood  insurance up to $25.00 per $100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(h) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(i) Conditions for variances:

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or non encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(j) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are in special flood hazard areas if all of the following conditions are met:

(1) The use serves a critical need in the community.

(2) No feasible location exists for the use outside the special flood hazard area.

(3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.

(4) The use complies with all other applicable federal, state, and local laws.

(5) The Town of Glen Alpine has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

Secs. 4-146—4-160. - Reserved.

DIVISION 5. - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 4-161. - General standards.

In all special flood hazard areas, the following provisions are required:

(1) All new construction and substantial improvements shall be designed (or modified) and anchored to prevent flotation, collapse, and lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction, or improvements to a structure, which follows the provisions of this article, shall meet the requirements of "new construction" as contained in this article.

(9) Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or  structure existing on the effective date of this article and located totally or partially within the  floodway, non-encroachment area, or stream setback, provided there is no additional  encroachment below the regulatory flood protection elevation in the floodway, non-encroachment  area, or stream setback, and provided that such repair, reconstruction, or replacement meets all  of the other requirements of this article.

(10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in subsection 4-145(j). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of subsection 4-142(c).

(11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(15) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(16) When a structure is in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.

Sec. 4-162. - Specific standards.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 4-122, or section 4-164, the following provisions, in addition to the provisions of section 4- 161, are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Division 2 of this article.

(2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in division 2 of this article. Structures located in A, AE, AO, and A1-30 zones may be floodproofed to the regulatory  flood protection elevation in lieu of elevation provided that all areas of the structure, together with  attendant utility and sanitary facilities, below the regulatory flood protection elevation are  watertight with walls substantially impermeable to the passage of water, using structural  components having the capability of resisting hydrostatic and hydrodynamic loads and the effect  of buoyancy. For AO zones, the floodproofing elevation shall be in accordance with subsection 4-167(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in subsection 4-142(c), along with the operational plan and the inspection and maintenance plan.

(3) *Manufactured homes.*

a. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Division 2 of this article.

b. Manufactured homes shall be securely anchored to an anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

c. All enclosures or skirting below the lowest floor shall meet the requirements of subsection 4- 162(4).

d. An evacuation plan must be developed for evacuation of all residents of all new, improved, or damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local emergency management coordinator.

(4) *Elevated buildings.* Fully enclosed area, of new construction and improved structures, which is below the lowest floor:

a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

b. Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and

c. Shall include, in zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;

ii. The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

iv. The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) *Additions/improvements.*

a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

i. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

b. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

i. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(6) *Recreational vehicles.* Recreational vehicles shall either:

a. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

b. Meet all the requirements for new construction.

(7) *Temporary nonresidential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

a. A specified time for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;

c. The period prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

d. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

e. Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(8) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

b. Accessory structures shall not be temperature-controlled;

c. Accessory structures shall be designed to have low flood damage potential;

d. Accessory structures shall be constructed and placed on the building site to offer the minimum resistance to the flow of floodwaters;

e. Accessory structures shall be firmly anchored in accordance with the provisions of subsection 4-161(1);

f. All service facilities such as electrical shall be installed in accordance with the provisions of subsection 4-161(4); and

g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of subsection 4-162(4) c.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with subsection 4-142(c).

Sec. 4-163. - Reserved.

Sec. 4-164. - Standards for floodplains without established base flood elevations.

Within the special flood hazard areas designated as approximate zone A and established in section 4-122, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of section 4-161, shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new  development shall be permitted within a distance of 20 feet each side from top of bank or five  times the width of the stream, whichever is greater, unless certification with supporting technical  data by a registered professional engineer is provided demonstrating that such encroachments  shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

a. When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this article and shall be elevated or floodproofed in accordance with standards in sections 4-161 and 4-162.

b. When floodway or non-encroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of sections 4-162 and 4-166.

c. All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with section 4-122 and utilized in implementing this article.

d. When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in division 2. All other applicable provisions of section 4-162 shall also apply.

Sec. 4-165. - Standards for riverine floodplains with base flood elevations but without established floodways or non-encroachment areas.

Along rivers and streams where base flood elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(1) Standards of sections 4-161 and 4-162; and

(2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all

other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Sec. 4-166. - Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in section 4-122. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in sections 4-161 and 4- 162, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:

a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

FEMA has approved b. A conditional letter of map revision (CLOMR). A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(2) If subsection 4-166(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

a. The anchoring and the elevation standards of subsection 4-162(3); and

b. The no encroachment standard of subsection 4-166(1).

Sec. 4-167. - Standards for areas of shallow flooding (zone AO).

Located within the special flood hazard areas established in section 4-122, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to sections 4-161 and 4-162, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one foot, above the highest adjacent grade; or at least four feet above the highest adjacent grade if no depth number is specified.

(2) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in subsection 4-167(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with subsection 4-142(c) and subsection 4-162(2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Secs. 4-168—4-180. - Reserved.

DIVISION 6. - LEGAL STATUS PROVISIONS

Sec. 4-181. - Effect on rights and liabilities under the existing flood damage prevention ordinance. This article in part comes forward by re-enactment of some of the provisions of the flood damage  prevention ordinance enacted on June 13, 2005 as amended, and it is not the intention to repeal but  rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights  and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Glen Alpine enacted on [INSERT NEW ADOPTION DATE HERE], as amended, which are not reenacted herein are repealed.

Sec. 4-182. - Effect upon outstanding floodplain development permits.

Nothing herein contained shall require any change in the plans, construction, size, or designated use  of any development or any part thereof for which a floodplain development permit has been granted by  the Floodplain Administrator or his or her authorized agents before the time of passage of this article;  provided, however, that when construction is not begun under such outstanding permit within a period of  six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in  conformity with the provisions of this article.