

Chapter 5

BUILDINGS AND BUILDING REGULATIONS*

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ARTICLE I. IN GENERAL

Sec. 5-1. Fire district established.

The fire district of the town is hereby established as the corporate limits of the town.
(Code 1964, § 5-12)

Cross reference—Bicycles prohibited on sidewalks in fire district, § 14-5.

State law reference—Authority to establish fire limits, R.S. 33:4741.

Sec. 5-2. Construction within fire district.

It shall be unlawful to construct, build or place any building or structure other than brick, concrete, stone or tile within the fire district. Provided, however, that the inside walls, partitions, floor, ceiling, studding, rafters and joists, bracings, sills, doors, door-facing and window-

***Charter references**—Authority to compel owners of property to erect railings, etc., § 16(2); to regulate the construction of wooden buildings, § 16(18); to inspect dwelling houses, buildings, etc., § 16(19).

Cross references—Fire prevention and protection, Ch. 7; flood damage prevention, Ch. 8; garbage, trash and weeds, Ch. 9; health and sanitation, Ch. 10; planning, Ch. 13; streets and sidewalks, Ch. 14; utilities, Ch. 17; zoning, App. A; airport zoning, App. B; subdivision regulations, App. C.

State law reference—Municipal building regulations generally, R.S. 33:4721 et seq.

framing may be of wooden construction or structural steel, and provided further that the roof on any building in the district may be of slate, concrete, tile, asbestos composition, composition surfaces with broken rock or pebbles, or of noncombustible material.

(Code 1964, § 5-2)

Sec. 5-3. Repairing, altering existing buildings.

It shall be unlawful to repair, alter, build to, or otherwise change any building or structure or any part thereof, already in existence, which building or structure is not already so constructed as to meet the requirements of section 5-2.

(Code 1964, § 5-3)

Secs. 5-4–5-25. Reserved.

ARTICLE II. BUILDING CODE*

DIVISION 1. GENERALLY

Sec. 5-26. Adopted.

There is hereby adopted by the mayor and selectmen of the town for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, that certain building code known as the National Building Code, abbreviated edition, recommended by the American Insurance Association, being particularly the 1976 edition thereof, and the whole thereof as amended, save and except such portions as are hereinafter deleted, modified, or amended, of which not less than three (3) copies have been and now are filed in the office of the clerk of the town and the same are hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the town.

(Code 1964, § 5-5)

State law reference—Authority to adopt building code by reference, R.S. 33:1368.

Sec. 5-27. Definitions.

(a) Whenever the word "municipality" is used in the building code, it shall be held to mean the Town of Homer, Louisiana.

(b) Wherever the term "corporation counsel" is used in the building code, it shall be held to mean the attorney for the town.

(Code 1964, § 5-11)

Cross reference—Definitions and rules of construction generally, § 1-2.

*State law reference—Municipal building codes, R.S. 33:4771 et seq.

Sec. 5-28. Liability.

Any officer or employee, or member of the board of adjustments and appeals, charged with the enforcement of the building code adopted by this article, acting for the town in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as

a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any provision of the building code adopted by this article shall be defended by the department of law until the final termination of the proceedings.

(Code 1964, § 5-9)

Secs. 5-29—5-40. Reserved.

DIVISION 2. BUILDING OFFICIAL

Sec. 5-41. Office established.

(a) The office of building official is hereby created and the executive official in charge shall be known as the building official.

(b) The building official shall be appointed by the mayor with approval of the selectmen of the town. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause after full opportunity has been given him to be heard on specific charges.

(c) During temporary absence or disability of the building official the appointing authority shall designate an acting building official.

(Code 1964, § 5-6)

Sec. 5-42. Qualifications.

The building official shall be in good health, physically capable of making the necessary examinations and inspections. He shall not have any interest whatever, directly or indirectly, in the sale or manufacture of any material, process or device entering into or used in or in connection with building construction, alteration, removal, and demolition.

(Code 1964, § 5-7)

Sec. 5-43. Duties.

(a) The building official shall receive applications required by this code, issue permits and furnish the prescribed certificates. He shall examine the premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. He shall enforce all provisions of the building code. He shall, when requested by proper authority, or when the public interest so requires, make investigations in connection with matters referred to in the building code and render written reports on the same. To enforce compliance with law, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures, he shall issue such notices or orders as may be necessary.

(b) Inspections required under the provisions of the building code shall be made by the building official or his duly appointed assistant. The building official may accept reports of inspectors of recognized inspection services, after investigation of their qualifications and

reliability. No certificate called for by any provisions of the building code shall be issued on such reports unless the same are in writing and certified to by a responsible officer of such service.

(c) The building official shall keep comprehensive records of applications, permits issued, certificates issued, inspections made, reports rendered, and notices or orders issued.

(d) All such records shall be open to public inspection for good and sufficient reasons at the stated office hours, but shall not be removed from the office of the building official without his written consent.

(e) The building official shall make written reports to his immediate superior once each month, or oftener if requested, including statements of permits and certificates issued, and orders promulgated.

(Code 1964, § 5-8)

Sec. 5-44. Right of entry.

The building official, in the discharge of his official duties, and upon proper identification, shall have authority to enter any building, structure, or premises at any reasonable hour.

(Code 1964, § 5-10)

Secs. 5-45—5-65. Reserved.

ARTICLE III. ELECTRICAL CODE

DIVISION 1. GENERALLY

Sec. 5-66. Adopted.

There is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, removal and maintenance of electric wiring and apparatus, including permits and penalties, that certain electric code known as the National Electrical Code of the National Fire Protection Association, being particularly the 1987 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of which not less than three (3) copies have been and now are filed in the office of the city clerk, and the same are hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the construction, alteration, maintenance or removal of all electric wiring and apparatus within the corporate limits of the town.

(Code 1964, § 7-1)

State law reference—Authority to adopt electrical code by reference, R.S. 33:1368.

Sec. 5-67. Permits required.

No installation, alteration, or removal shall be made in/or of the wiring of any building or structure for light, heat or power or to increase the load of energy carried by such wires or

equipment, nor shall any building or structure be wired for electric lights, appliances, motors, apparatus, or heating devices nor alterations made thereto without a written permit therefor being first obtained from the town by the person having direct charge of such installation.
(Code 1964, § 7-4)

Sec. 5-68. Inspection, certification, fee.

Upon the completion of the wiring, installation or alteration of any building or structure for light, heat, power, appliance, or apparatus, it shall be the duty of the person having direct charge of such to notify the electrical inspector who shall, as early as possible, inspect such wiring, installation, appliance, and apparatus and if installed, altered and constructed in compliance with the permit and in accordance with the requirements of this article, the electrical inspector shall execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of his examination, but no such certificate shall be issued unless such electric wiring, motors, heating devices, appliances, and apparatus be in strict accord with the rules and requirements and the spirit of this article, nor shall current be turned on such installation, equipment, appliance, motors, heating device, and apparatus until the certificate be issued. The amount of fee or charge to be made for such inspections and certificate to be fixed and determined by the selectmen from time to time and a schedule of such fees is on file in the town clerk's office.
(Code 1964, § 7-5)

Sec. 5-69. Standards for electrical installations.

All electrical construction, materials, appliances, motors, heating devices, and apparatus used in connection with electrical work and the operation of all electrical apparatus within the town shall conform to the rules and requirements of the current National Electrical Code when work is performed or equipment and apparatus installed, however, the necessity, good service and the results often require larger sizes of wire, more branch circuits, and better types of equipment than the minimum which is specified in the National Electrical Code. The electrical inspector supervising the enforcement of the electrical code adopted by this article will have the responsibility and authority for making interpretations of the rules, for deciding upon the approval of equipment, materials, construction and for granting the special permission contemplated in a number of the rules and the electrical inspector, where necessary, shall follow the code procedure for securing official interpretations of the electrical code.
(Code 1964, § 7-6)

Sec. 5-70. Licensing of electricians.

(a) Any person desiring to engage in the business of electrical construction or of the installation of wiring and apparatus for electric lights, appliances, heating or power in the town shall, before doing so, obtain a license therefor. The fee for an electrician's license shall be set from time to time by the mayor and selectmen and is on file in the town clerk's office.

(b) No license shall be issued until the party applying for such license has given satisfactory evidence to the electrical inspector of their ability to do such electrical work in a safe and satisfactory manner. No permit for installation or alteration of any wiring, heating devices, motors, appliances and apparatus shall be issued until the license required by this section has been obtained.

(Code 1964, §§ 7-7, 7-9)

State law reference—Regulation of electricians by municipalities, R.S. 33:4782.

Sec. 5-71. Individuals performing own work.

Any individual desiring to perform his own electrical work personally shall not be required to obtain the required license, but shall be required to obtain the regular permit for that particular job. Such work done by an individual must be done by him personally on his own particular job and not be in a way of performing a service to the public generally.

(Code 1964, § 7-13)

Sec. 5-72. Failure to comply.

Any person who shall fail to correct any defect in his work or to meet the required standards after having been given notice of the unfit condition by the electrical inspector, within a reasonable time, shall be refused any other permit until such defect has been corrected and shall be subject to revocation of license for continual defective work or either upon conviction for violation of the provision of this article.

(Code 1964, § 7-10)

Sec. 5-73. Authority to cut off current.

Upon failure to comply with this article, the electrical inspector shall have authority, after due notice, to discontinue the electric current in the locality concerned.

(Code 1964, § 7-11)

Secs. 5-74—5-95. Reserved.

DIVISION 2. ELECTRICAL INSPECTOR

Sec. 5-96. Appointment; qualifications; compensation.

There is hereby created the office of electrical inspector who shall be appointed by the mayor, subject to the confirmation of the selectmen. The electrical inspector shall have had at least two (2) years' experience as an electrician, shall be of good moral character, shall be versed in the approved methods of electrical construction for safety of life and property and the National Electrical Code. He shall receive such compensation as the selectmen shall decide.

(Code 1964, § 7-2)

Sec. 5-97. Duties.

(a) The electrical inspector shall have the duty and is hereby authorized, empowered, and directed to regulate and determine the placing of electric wires or other appliances for electric lights, heat or power in the town, and to cause all such wires, appliances or apparatus to be placed, constructed, and guarded as not to cause fires or accidents, endangering life or property, and to be constructed as to keep to a minimum the loss or waste of electric current.

(b) It shall be the duty of the electrical inspector to enforce all provisions of this article and he is hereby granted the authority to enter all buildings in the town in the performance of his duties between the hours of 8:00 a.m. and 5:00 p.m. daily, except that in emergency and within the limits of reason, the electrical inspector may enter buildings for such purposes at other than the designated hours.

(c) It shall be the duty of the electrical inspector to inspect or test all electrical work and equipment or apparatus for compliance with the code adopted by this article whenever electric wiring, appliances, or apparatus shall be defective or hazardous through improper manufacture or improper or insufficient insulation or for any other reason, he shall at once cause the removal of such defect, at the expense of the owners of such wiring, appliance or apparatus. (Code 1964, § 7-3)

Secs. 5-98—5-120. Reserved.

ARTICLE IV. GAS CODE**Sec. 5-121. Adopted.**

There is hereby adopted by reference as though fully set out herein that certain code known as the Standard Gas Code, 1985 edition, published by the Southern Building Code Congress International, Inc., of Birmingham, Alabama, and not less than one (1) copy has been and now is filed in the office of the town clerk and the provisions thereof shall be controlling in the construction, alteration or repair of all gas piping and appliances in or for buildings and structures within the town.

State law reference—Authority to adopt gas code by reference, R.S. 33:1368.

Sec. 5-122. Office of inspector created; duty to inspect.

There is hereby created the office of inspector of gas fitting and fixtures in and for the town, whose duty it shall be to inspect all gas fittings, piping and fixtures used or to be used in the town.

(Code 1964, § 10-1)

Sec. 5-123. Work to be supervised by inspector; applicability of regulations.

All inspection and testing of gas meters, gas piping and installation of all kinds of gas apparatus, shall be under the supervision of the inspector of gas fitting and gas fixtures, or his duly authorized deputy, and the rules and regulations of this article shall govern the same.
(Code 1964, § 10-2)

Sec. 5-124. Fees to be paid to clerk; records required.

All fees collected by the gas inspector under this article shall be paid to the town clerk, and a record shall be kept of all inspections and tests made and the amount of fees collected.
(Code 1964, § 10-3)

Sec. 5-125. Certification and licensing of fitters.

Any person desiring to engage in any work governed by this article shall first prove himself competent to do such work, after examination by the gas inspector, and obtain a certificate of qualification. A fee for the certificate of qualification and a fee for a gas fitter's license shall be set from time to time by the mayor and selectmen and a schedule of such fees is on file in the town clerk's office.
(Code 1964, § 10-4)

Sec. 5-126. Permit required; permit fee.

Before work governed by this article is commenced, the person doing the work or having it done shall make application for and obtain a permit. The fee for such permit shall be set from time to time by the mayor and selectmen and is on file in the town clerk's office.
(Code 1964, § 10-5)

Sec. 5-127. Inspection required; application; fee.

All work covered by this article shall be inspected by the inspector before it is covered and concealed. The person doing said work shall apply to the gas inspector, on a form supplied by him, for an inspection. The application shall be made at least twelve (12) hours before it is desired to have the inspection made. The application for an inspection shall be accompanied by a fee which shall be set from time to time by the mayor and selectmen and is on file in the town clerk's office.
(Code 1964, § 10-6)

Sec. 5-128. Fee for additional inspections.

If it is necessary for the gas inspector to visit the site of work covered by this article more than once for any reason, an additional fee shall be charged for each visit after the initial visit. This fee shall be set from time to time by the mayor and selectmen and is on file in the town clerk's office.
(Code 1964, § 10-7)

Sec. 5-129. Certificates of approval.

If the gas inspector finds that the work complies with this article, he shall issue a certificate of approval. Gas suppliers are hereby authorized to refuse to supply any customer unless the application is accompanied by a certificate of approval. Architects, owners of buildings and building contractors are requested to refuse to allow any bills for gas fitting or piping unless accompanied by a certificate of approval.

(Code 1964, § 10-8)

Sec. 5-130. Tests.

All tests of gas piping shall be made with air pressure on a mercury gauge and shall maintain a pressure of ten (10) pounds for fifteen (15) minutes without failing.

(Code 1964, § 10-9)

Sec. 5-131. Shutoff cock required.

A shutoff cock of the same size as the service pipe from the curb to the house shall be placed not more than one (1) foot inside the curblin and provided with an approved box to ensure immediate control of the supply of gas by the fire department in case of fire. Such box shall have on its cover the word "Gas."

(Code 1964, § 10-10)

Sec. 5-132. Installation requirements.

The requirements for the installation of gas equipment etc., shall be as follows:

- (1) No service pipe from the curb shall be less than one (1) inch in diameter, except by special agreement.
- (2) All service pipes from the curb to the meter must be as large as from the main to the curb.
- (3) For from seven (7) to ten (10) fires, one-and-one-quarter-inch pipe is required.
- (4) Where boilers and hot air furnaces are used the main must be large enough to supply a sufficient quantity of gas.
- (5) Laterals or risers for one (1) fire shall be one-half inch when not over ten (10) feet long.
- (6) Laterals or risers for two (2) fires shall be three-quarters inch when not over thirty (30) feet long.
- (7) Laterals or risers for seven (7) to ten (10) fires shall be one-and-one-quarter (1¼) inches when not over forty (40) feet long.
- (8) Risers and connections to stoves must be large enough to supply a sufficient quantity of gas.
- (9) No bushing to a stove connection is allowed.

- (10) No three-eighth-inch pipe will be accepted.
 - (11) Openings and drops in halls, churches, schools and stores must be not less than one-half inch.
 - (12) The burr left on the inside of gas pipe must in every case be reamed out.
 - (13) No bushing or gasket unions are allowed.
 - (14) All gas pipes must be graded to risers, free from traps or sags, properly supported with screws and gas pipe hooks or hangers. When it is impossible to prevent a trapped gas pipe, a suitable drip shall be provided, consisting of a nipple and cap located in an accessible place.
 - (15) All drops and openings for lights must be projected at least one (1) inch beyond plaster or wall or ceiling and must be securely fastened to joist or studding, or to notched or cross pieces fastened to joist or upright studding. No gas pipe notched into lower joists will be accepted.
 - (16) In remodeling or extending old gas piping, connections must be made where sizes can be maintained. If this cannot be done new pipe must be run to the meter. The inspector may require that old piping be included in the test to which the extension is subjected, should he deem this necessary.
 - (17) No service pipe from the main in the street to the curblin shall be less in size than one (1) inch pipe low pressure and one-half-inch high pressure. No person shall lay or cause to be laid a gas service pipe in a trench excavated for a house sewer or within two (2) feet thereof.
 - (18) All foundation walls must be carefully cemented where gas pipes enter the building from the street.
 - (19) When any defective pipe or fitting is discovered, it must be replaced with sound material.
 - (20) No gas fitters' cement will be allowed to patch defects.
 - (21) All outlets or risers where fixtures are not placed shall be left securely capped.
 - (22) No gas pipe shall be laid at a greater depth than the main.
- (Code 1964, § 10-11)

Sec. 5-133. Diverting gas or tampering with meters or piping.

It shall be unlawful for any person to divert the flow of gas or tamper in any manner with the gas meter or any of the gas piping before it reaches the meter except as provided in this article.

(Code 1964, § 10-12)

Secs. 5-134—5-155. Reserved.

ARTICLE V. PLUMBING CODE***DIVISION 1. GENERALLY****Sec. 5-156. Adopted.**

There is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, removal, installation and maintenance of plumbing, including permits and penalties, that certain plumbing code known as the Standard Plumbing Code published by the Southern Building Code Congress International, Inc., Birmingham, Alabama, being particularly the 1985 edition, as amended, and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of which not less than three (3) copies have been and now are filed in the office of the town clerk and the same are hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in the construction, alteration, maintenance, installation or removal of all plumbing within the corporate limits.

(Code 1964, § 16-1)

State law reference—Authority to adopt plumbing code by reference, R.S. 33:1368.

Sec. 5-157. Permits.

No installation, alteration, or removal shall be made in or of the plumbing of any building or structure, nor shall any plumbing be done without a written permit therefor being first obtained from the town by the person having direct charge of such installation.

(Code 1964, § 16-4)

Sec. 5-158. Inspection.

Upon the completion of the plumbing of any building or structure, it shall be the duty of the person having direct charge of such to notify the town plumber who shall, as early as possible, inspect such plumbing, and if installed, altered and constructed in compliance with the permit and in accordance with the requirements of this article, he shall execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of his examination, but no such certificate shall be issued unless such plumbing be in strict accord with the rules and requirements and the spirit of this article. The amount of fee or charge to be made for such inspections and certificate to be fixed and determined by the selectmen from time to time and a schedule of such fees is on file in the town clerk's office.

(Code 1964, § 16-5)

Sec. 5-159. Standards.

All plumbing construction and all materials used in connection with plumbing work within the town shall conform to the rules and requirements of the plumbing code adopted by this article when work is performed or equipment and apparatus installed.

(Code 1964, § 16-6)

***Cross reference**—Utilities, Ch. 17.

State law reference—Plumbers, R.S. 37:1361 et seq.

Sec. 5-160. Licensing of plumbers.

(a) Any person desiring to engage in the business of plumbing construction or of the installation of plumbing in the town shall, before doing so, obtain a license therefor. The fee for a plumber's license shall be set from time to time by the mayor and selectmen and is on file in the town clerk's office.

(b) No license shall be issued or renewed until the party applying for same has given satisfactory evidence to the town plumber of his ability to do such plumbing work in a safe and satisfactory manner and of his possession of a current state license. No permit for installation or alteration of any plumbing shall be issued until the license required has been obtained.

(Code 1964, §§ 16-7, 16-9; Ord. No. 703, 9-20-82)

State law reference—Plumbers, R.S. 37:1361 et seq.

Sec. 5-161. Failure to comply.

Any person who shall fail to correct any defect in his work or to meet the required standards after having been given notice of the unfit condition by the plumbing inspector, within a reasonable time, shall be refused any other permit until such defects have been corrected and shall be subject to revocation of license for either continual defective work or upon conviction for violation of the provision of this article.

(Code 1964, § 16-10)

Sec. 5-162. Individuals performing own work.

Any individual desiring to perform his own plumbing work personally shall not be required to obtain the required license, but shall be required to obtain the regular permit for that particular job. Such work done by an individual must be done by him personally on his own particular job and not be a way of performing a service to the public generally.

(Code 1964, § 16-12)

Secs. 5-163—5-180. Reserved.**DIVISION 2. PLUMBING INSPECTOR****Sec. 5-181. Office created; qualifications; compensation.**

There is hereby created the office of plumbing inspector who shall be appointed by the mayor, subject to the confirmation of the selectmen. The plumbing inspector shall have had at least two (2) years' experience as a plumber, shall be of good moral character, shall be versed in the approved methods of plumbing construction for safety of life and property and the Standard Building Code. He shall receive such compensation as the selectmen may decide.

(Code 1964, § 16-2)

Sec. 5-182. Duties.

(a) The plumbing inspector shall have the duty and is hereby authorized, empowered, and directed to regulate and determine the placing and installation of plumbing in the town and to cause all such plumbing to be installed so not to cause accidents endangering life or property.

(b) It shall be the duty of the plumbing inspector to enforce all provisions of this article and he is hereby granted the authority to enter all buildings in the town in the performance of his duties between the hours of 8:00 a.m. and 5:00 p.m. daily, except that in emergency and within the limits of reason, the plumbing inspector may enter buildings for such purposes at other than the designated hours.

(c) It shall be the duty of the plumbing inspector to inspect or test all plumbing work and equipment for compliance with the code adopted by this article whenever plumbing shall be defective or hazardous through improper manufacture or improper or insufficient installation or for any other reason, he shall at once cause the removal of such defects at the expense of the owners of such plumbing.

(Code 1964, § 16-3)

Secs. 5-183–5-200. Reserved.**ARTICLE VI. HOUSING CODE****DIVISION 1. GENERALLY****Sec. 5-201. Adopted.**

There is hereby adopted by the mayor and selectmen of the town those certain health and housing standards known as the Standard Housing Code, published by the Southern Building Code Congress International, Inc., Birmingham, Alabama, particularly the 1985 edition, of which not less than three (3) copies have been and are now filed in the office of the town clerk, and the same are hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling on all dwellings and premises within the corporate limits of the town.

(Code 1964, § 5-21)

State law reference—Authority to adopt housing code by reference, R.S. 33:1368.

Sec. 5-202. Housing enforcing official.

(a) *Office created.* The office of housing enforcing official is hereby created.

(b) *Responsibility for enforcement.* The housing enforcing official shall be responsible for the enforcement of this article.

(c) *Appointment, removal.* The housing enforcing official shall be appointed by the mayor subject to confirmation of the selectmen. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause after full opportunity has been given him to be heard on specific charges.

(d) *Duties.* It shall be the duty of the housing enforcing official to enforce all laws and provisions specified in the housing code adopted in this division.

(e) *Right of entry.* The housing enforcing official, in the discharge of his official duties, and upon proper identification, shall have authority to enter any building, structure, or premises at any reasonable hour.

(Code 1964, §§ 5-22, 5-24, 5-25)

Sec. 5-203. Housing board of appeals.

(a) *Created; appointment of members; terms.* There is hereby created a board of housing appeals which shall consist of five (5) members appointed by the mayor subject to confirmation of the selectmen. The members shall be appointed to serve staggered terms.

(b) *Majority vote required for actions.* The housing board of appeals shall act by majority vote of the members present.

(c) *Powers, duties.* The housing board of appeals shall have the power and be required to hold public hearings in deciding appeals where it is alleged there is an error in law or fact in any order or decision of the housing enforcing official in the enforcement of this article.

(Code 1964, § 5-23)

Secs. 5-204—5-225. Reserved.

DIVISION 2. FAIR HOUSING

Sec. 5-226. Policy.

It is the policy of the town to provide, within constitutional limitations, for fair housing throughout the town.

(Ord. No. 748, § 1, 3-2-87)

Sec. 5-227. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Discriminatory housing practice means an act that is unlawful under section 5-229, 5-230 or 5-231.

Dwelling means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant

land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Family includes a single individual.

To rent includes a lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(Ord. No. 748, § 2, 3-2-87)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 5-228. Application of prohibitions.

(a) Subject to the provisions of subsection (b) of this section and section 5-232, the prohibitions against discrimination in the sale or rental of housing set forth in section 5-229 shall apply to all dwellings except as exempted by subsection (b) of this section.

(b) Nothing in section 5-229 shall apply to:

(1) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three (3) such single-family houses at any one (1) time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four-month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one (1) time; provided further, that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and without the publication, posting or mailing, after notice of any advertisement or written notice in violation of section 5-229(c), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his residence.

(c) For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or

- (2) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
- (3) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

(Ord. No. 748, § 3, 3-2-87)

Sec. 5-229. Discrimination in the sale or rental of housing.

As made applicable by section 5-228 and except as exempted by sections 5-228(b) and 5-232, it shall be unlawful:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin;
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin;
- (3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination;
- (4) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.

(Ord. No. 748, § 4, 3-2-87)

Sec. 5-230. Discrimination in the financing of housing.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occu-

pants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 5-228(b).
(Ord. No. 748, § 5, 3-2-87)

Sec. 5-231. Discrimination in the provision of brokerage services.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion or national origin.
(Ord. No. 748, § 6, 3-2-87)

Sec. 5-232. Exemption.

Nothing in this division shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this division prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
(Ord. No. 748, § 7, 3-2-87)

Sec. 5-233. Administration.

(a) The authority and responsibility for administering this division shall be in the mayor.

(b) The mayor may delegate any of these functions, duties and powers to employees of the town or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this division. The mayor shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the town, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(c) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this division and shall cooperate with the mayor to further such purposes.
(Ord. No. 748, § 8, 3-2-87)

Cross reference—Administration, Ch. 2.

Sec. 5-234. Education and conciliation.

Immediately after the enactment of the ordinance from which this division derives, the mayor shall commence such educational and conciliatory activities as will further the purposes of this division. He shall notify persons in the housing industry and other interested parties to acquaint them with the provisions of this division and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement.

(Ord. No. 748, § 9, 3-2-87)

Sec. 5-235. Enforcement.

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor. Complaints shall be in writing and shall contain such information and be in such form as the mayor requires. Upon receipt of such a complaint, the mayor shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint, or within thirty (30) days after the expiration of any period of reference under subsection (c) of this section, the mayor shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the mayor decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this division without the written consent of the persons concerned. Any employee of the mayor who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year.

(b) A complaint under subsection (a) of this section shall be filed within one hundred eighty (180) days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the mayor, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) If within thirty (30) days after a complaint is filed with the mayor, the mayor has been unable to obtain voluntary compliance with this article, the person aggrieved may, within thirty (30) days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor will assist in this filing.

(d) If the mayor has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the person aggrieved may, within thirty (30) days thereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to

enforce the rights granted or protected by this division, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual shall come to trial, the mayor shall immediately terminate all efforts to obtain voluntary compliance.
(Ord. No. 748, § 10, 3-2-87)

Sec. 5-236. Investigations; subpoenas; giving of evidence.

(a) In conducting an investigation the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation; provided however, that the mayor first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The mayor may administer oaths.

(b) Upon written application to the mayor, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor to the same extent and subject to the same limitations as subpoenas issued by the mayor himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Witnesses summoned by subpoena of the mayor shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(d) Within five (5) days after service of a subpoena upon any person, such person may petition the mayor to revoke or modify the subpoena. The mayor shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena, the mayor or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(f) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the mayor shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement of fact in any reports, accounts, records, or other documents submitted to the mayor pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both.

(g) The town attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this division.
(Ord. No. 748, § 11, 3-2-87)

Sec. 5-237. Enforcement by private persons.

(a) The rights granted by sections 5-228 through 5-231 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred eighty (180) days after the alleged discriminatory housing practice occurred; provided however, that the court shall continue such civil case brought pursuant to this section or section 5-235(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the mayor are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the mayor and which practice forms the basis for the action in court; and provided however, that any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this article, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of this filing of a complaint or civil action under the provisions of this article shall not be affected.

(b) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than one thousand dollars (\$1,000.00) punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff; provided, that the plaintiff in the opinion of the court is not financially able to assume such attorney's fees.
(Ord. No. 748, § 12, 3-2-87)

Sec. 5-238. Interference, coercion, or intimidation.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted

or protected by sections 5-228 through 5-231. This section may be enforced by appropriate civil action.

(Ord. No. 748, § 13, 3-2-87)

Sec. 5-239. Prevention of intimidation in fair housing cases.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

- (1) Any person because of his race, color, religion or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or
- (2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:
 - a. Participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection (1) of this section; or
 - b. Affording another person or class of persons opportunity or protection so to participate; or
- (3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection (1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than one thousand dollars (\$1,000.00), or imprisoned not more than one (1) year, or both; and if bodily injury results shall be fined not more than ten thousand dollars (\$10,000.00), or imprisoned not more than ten (10) years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(Ord. No. 748, § 15, 3-2-87)

Secs. 5-239–5-260. Reserved.

ARTICLE VII. HOMER HISTORIC DISTRICT*

DIVISION 1. GENERALLY

Sec. 5-261. Definitions.

Accessory structure means a detached subordinate building located on the same building site with the main building, the use of which is incidental to that of the main building.

***Editor's note**—Ordinance No. 785, adopted Aug. 19, 1991 did not specifically amend the Code; hence, inclusion of §§ 1–11 as Ch. 5, Art. VII, §§ 5-261, 5-262, 5-286–5-293, was at the discretion of the editor.

Building means any covered structure intended for shelter, housing, enclosure or economic activities related to persons, animals or chattels. The term "building" shall be construed to include the term "structure."

Economic return means the capacity of a building to generate revenue, in the form of fair market rents. When the fair market rents less expenses for a building equal zero, the building shall be considered incapable of generating any net economic return on its value.

Historic means a building is classified as historic when it is at least fifty (50) years of age and is of significant local, regional or national historic, architectural and/or cultural value.

Historic district means the area of the town designated as the "Homer Historic District" is as specified on Attachment A hereto of Ord. No. 785.
(Ord. No. 785, §§ 1, 3, 8-19-91)

Sec. 5-262. Demolition of historic buildings.

When, upon proper and timely application to the mayor and selectmen of the town a property owner shows that a building classified as historic and located in the Homer Historic District delineated in section 5-261 is incapable of earning any economic return on its value, as appraised by a qualified real estate appraiser, or if new construction can be demonstrated by a property owner to be the highest and best use of the building site, such building may be demolished, provided, however, that before a demolition permit is issued, notice of proposed demolition shall be given three (3) times during a period of thirty (30) days to afford the town, interested persons and historical societies or organizations the opportunity to acquire or to arrange for the preservation of such building.
(Ord. No. 785, § 2, 8-19-91)

Secs. 5-263–5-285. Reserved.

DIVISION 2. HOMER HISTORIC DISTRICT ADVISORY COMMISSION

Sec. 5-286. Commission established.

There is hereby created a commission to be known as the Homer Historic District Advisory Commission.
(Ord. No. 785, § 4, 8-19-91)

Sec. 5-287. Purpose.

The purpose of the Homer Historic District Advisory Commission shall be to endorse plans as presented or, when deemed necessary, to make recommendations for changes to property owners upon all proposed alterations, relocations, and new construction within the boundaries of the Homer Historic District and any other actions necessary to implement the intent of this article. Commission recommendations shall not be binding, however the commission shall make itself available to assist owners of properties on which alteration, relocation, or new construction is contemplated in complying with recommendations. The commission shall also

assist property owners interested in pursuing investment tax credits for historic rehabilitation to meet the requirements for that program.

(Ord. No. 785, § 5, 8-19-91)

Sec. 5-288. Recommendation and appointment of members.

The commission shall consist of fifteen (15) members appointed by the mayor and selectmen of the town. All commission members shall have a demonstrated interest, competence or knowledge in historic preservation. A good faith effort shall be made to appoint professional members from the disciplines of architecture, history, architectural history, planning, archaeology or other related fields, to the extent such professionals are available in the community. In addition, lay members who have demonstrated special interest, experience or knowledge of these disciplines may be appointed to the commission.

(Ord. No. 785, § 6, 8-19-91)

Sec. 5-289. Term vacancies.

During the process of initiating the commission, members shall be appointed as follows: Five (5) members shall be appointed for one (1) year, five (5) members for two (2) years and five (5) members for three (3) years. All reappointments shall be for three (3) years. The members may serve consecutive terms and there shall be no limit on the number of terms which may be served. Any vacancy shall be filled within sixty (60) days by action of the mayor and selectmen.

(Ord. No. 785, § 7, 8-19-91)

Sec. 5-290. By-laws.

The commission shall make such by-laws as it may deem necessary for the conduct of its affairs not inconsistent with the ordinances of the town and the laws of the state. Presence of eight (8) members of the commission at a meeting shall constitute a quorum. The commission shall meet quarterly unless there are no permit applications for alteration, relocation or new construction in the historic district pending. Special meetings may also be held at any time on the written request of any three (3) of the members or on the call of the chairman of the commission or the mayor of the town. The commission shall make a report on its recommendations and activities to the mayor and selectmen of the town after every meeting.

(Ord. No. 785, § 8, 8-19-91)

Sec. 5-291. Staffing.

The Homer Main Street Manager shall serve as staff for the commission and such members of the staff of the mayor of the town as he shall recommend with approval of the selectmen.

(Ord. No. 785, § 9, 8-19-91)

Sec. 5-292. Procedures.

When application for a building permit for any alteration, relocation or new construction in the Homer Historic District is made, the building permits clerk shall notify the Homer Historic District Advisory Commission and make available to it a copy of all required application materials submitted. The commission shall meet with the applicant to explain its recommendations on rehabilitation plans. The major focus of any recommendations for change or endorsement of plans as presented shall be to help property owners to avoid any action which might tend to impede present or future federal tax benefits arising from location in the historic district.

(Ord. No. 785, § 10, 8-19-91)

Sec. 5-293. Criteria to be used by the commission in making recommendations.

The criteria to be used by the commission in making recommendations are as follows:

- (1) To the extent feasible with economic realities, efforts should be encouraged to provide compatible uses for buildings requiring minimal building, building site and environmental alteration.
- (2) Removal, destruction or alteration of original characteristics or unique architectural features of buildings should be discouraged.
- (3) Surface cleaning of structures by the gentlest means possible should be encouraged. Sandblasting and abrasive chemical cleaning methods that will damage historic building materials should be avoided.
- (4) In a rehabilitation project, use of materials matching or compatible with those already used in the building as to composition, design, color, texture and other visual qualities should be encouraged.
- (5) Contemporary design and alterations and additions to existing buildings should not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible in size, scale, material and character to the property, neighborhood and environment.
- (6) In the case of new construction, compatibility with surrounding buildings in scale, size and materials should be encouraged.

(Ord. No. 785, § 11, 8-19-91)

Secs. 5-294—5-299. Reserved.

ARTICLE VIII. BUILDING ABATEMENT CODE***Sec. 5-300. Findings of fact.**

It having been determined that there exists within the municipal limits of the Town of Homer, Louisiana, structures used for human occupancy and habitation that are in a dilapidated and/or dangerous condition, which condition endangers the public welfare; that because of such dilapidated or dangerous condition, these structures constitute a menace to the health, safety and welfare of the citizens of the Town of Homer; that the continued existence of such buildings could create blighted areas, requiring substantial clearance if not remedied; in the absence of corrective measures taken by the Town of Homer, such properties will experience a deterioration of economic values and the curtailment of investment and tax revenue; and upon the authority of Louisiana Revised Statutes 33:4761 et seq., that it is deemed in the public interest of the citizens of the Town of Homer that the establishment and maintenance of minimum structural, environmental and building abatement standards are essential to the preservation of the public welfare and the prevention of dangerous conditions due to dilapidated buildings which endanger the public welfare, it is found by the board of selectmen of the Town of Homer that it is necessary to adopt this Code, in order to safeguard the public health, safety and welfare of the citizens of the Town of Homer.

(Ord. No. 793, 12-7-93)

Sec. 5-301. Title.

The provisions set forth herein shall constitute and be known as the "Building Abatement Code," hereinafter referred to as "Code."

(Ord. No. 793, 12-7-93)

Sec. 5-302. Definitions.

For the purposes of this Code, certain abbreviations, terms, phrases, words and other derivatives and definitions shall be construed as set forth in Chapter 1, section 1-2, of the Code of Ordinances of the Town of Homer. In the event that a specific definition is not set forth therein, the order of defining said term shall be by reference to the Louisiana Revised Statutes, and in the absence therein of any definition, to the general definition as accepted by the most current edition of Webster's Dictionary.

(Ord. No. 793, 12-7-93)

Sec. 5-303. Notice of violations.

(a) Before the board of selectmen may condemn any building or structure within the municipal limits of the Town of Homer, there must be submitted to said board a written report

***Editor's note**—Ordinance No. 793, adopted December 7, 1992, added provisions designated as Ch. 5, Art. VII, §§ 5-250—5-263. In order to avoid duplicative article and section numbering, such provisions have been redesignated as Ch. 5, Art. VIII, §§ 5-300—5-313 at the discretion of the editor.

recommending the demolition, removal or improvement of said property signed by the building official, or any other person authorized to act in such matters for the town, as may be deemed proper by the board of selectmen.

(b) Upon said notification, as set forth hereinabove, the mayor shall thereupon serve notice on the owner of the building or structure, requiring him to show cause at a meeting of the board of selectmen, regular or special, why the building or structure should not be demolished, removed and/or improved under the conditions set forth hereinafter.

(c) The date and hour of the meeting shall be stated in the notice, which shall be served at least ten (10) days prior to the date of the hearing, except in case of grave public emergency, as hereinafter defined and provided. The notice required herein may be served by registered or certified mail, postage prepaid, addressed to the owner at his last known address. The notice may also be served by the chief of police of the Town of Homer, or by any sheriff, deputy sheriff or constable having jurisdiction and power to serve legal process where the owner of the building or structure is found in the State of Louisiana, and the officer shall make return of the service as in cases conducted by ordinary process.

(Ord. No. 793, 12-7-93)

Sec. 5-304. Grave public emergency.

(a) In case of grave public emergency where the condition of the building is such as to cause possible immediate loss or damage to person or property, the board of selectmen of the Town of Homer may condemn the building after twenty-four (24) hours' notice served upon the owner, his agent or the occupant, or the attorney at law appointed to represent the absentee owner.

(b) If the owner is absent from the state, his whereabouts are unknown, or he is unrepresented in the proceedings, the notice shall be served upon the occupant of the building in question, if any occupant exists, and also upon an attorney at law appointed by the mayor to represent the absentee, unknown resident or unrepresented owner. Domiciliary service may be made as in ordinary cases.

(Ord. No. 793, 12-7-93)

Sec. 5-305. Notice of proceedings.

Any notice served pursuant to section 5-303 of this article shall be filed with the Recorder of Mortgages for Claiborne Parish, Louisiana. Once filed, said notice shall be deemed notice to all subsequent transferees of the subject property. Any transferee of such property takes the property subject to all recorded liens, mortgages and notices pertinent thereto.

(Ord. No. 793, 12-7-93)

Sec. 5-306. Decision of board of selectmen.

(a) After the public hearing, if, in the opinion of the board of selectmen of the Town of Homer, the facts justify it, an order shall be entered condemning the building or structure and ordering that it be demolished or removed within a certain delay, and such order shall be made

part of the public record. If, however, repairs will correct or rectify the dilapidated, dangerous or unsafe condition, the board of selectmen may grant the owner of the premises the option of making such repairs, but in such a case the general nature or extent of the repairs to be made, the time thereof and the defects to be corrected shall be specified in the decision of the board of selectmen, as reflected in the minutes of said meeting.

(b) The decision and order of the board of selectmen shall be in writing and shall be final, unless appealed from within five (5) days, as hereinafter provided.

(Ord. No. 793, 12-7-93)

Sec. 5-307. Appeal from decision.

(a) The owner, occupant, agent, or other representative of the owner may appeal from the decision of the board of selectmen to the Second Judicial District Court in and for the Parish of Claiborne, State of Louisiana. The appeal shall be made by the filing of a suit against the Town of Homer, setting forth specifically the reasons why the decision or order of the board of selectmen is illegal or improper, and the issue shall be tried de novo and by preference in the district court.

(b) In the event of a grave public emergency, as declared by the board of selectmen, the owner of the building who desires to prevent the demolition or removal thereof must file a petition within forty-eight (48) hours of the official declaration of the grave public emergency, and must, at the time of the filing of the petition, furnish such bond as may be fixed by the district court to cover any damage that might be caused by the condition of the building or structure.

(Ord. No. 793, 12-7-93)

Sec. 5-308. Compliance with decision; demolition by town where owner fails to comply; notice.

(a) The owner or his designated agent may proceed to demolish or remove the building or structure, or have it repaired, in accordance with the order of the board of selectmen, provided the owner or his agent executes a contract in writing obligating himself to have the work done within the required time and files with the mayor a copy of the contract, together with a bond to guarantee performance.

(b) In the event the owner or occupant of the building or structure fails or refuses to comply with the decision of the board of selectmen and fails to appeal therefrom within the legal delays provided herein, then, in that event, the mayor may proceed with the demolition or removal of the condemned building or structure, in which case neither the mayor, the board of selectmen nor the Town of Homer, individually or collectively, shall be liable in damages.

(Ord. No. 793, 12-7-93)

Sec. 5-309. Notice of demolition.

Prior to the demolition or removal of the building or structure by the Town of Homer, the mayor shall serve notice upon the owner or his agent and upon the occupant of the building,

if there be any, or upon the attorney at law who may have been appointed to represent the owner, giving the time when work will begin upon the demolition or removal of the building. (Ord. No. 793, 12-7-93)

Sec. 5-310. Lien and privilege for cost of demolition, removal and maintenance by the town; interest; attorney fees.

(a) The Town of Homer shall have a privilege and lien upon an immovable and its improvements, and the owner is personally liable for:

- (1) The cost to the Town of Homer of maintenance of the immovable or improvements; and
- (2) The cost to the Town of Homer of demolishing or removing, or both, a building or structure situated upon the immovable, and all attorney fees incurred by the town in connection with such demolition or removal.

(b) "Maintenance" shall include, but not be limited to, grass cutting, weed abatement and trash and garbage removal.

(c) The privilege and lien shall be preserved and enforced only after the owner has refused, after notification by the Town of Homer and reasonable opportunity to be heard, to pay the costs incurred by the town.

(d) The privilege and lien shall be preserved by the filing and recording of an affidavit signed by the mayor of the Town of Homer in the Mortgage Records of Claiborne Parish, Louisiana. The affidavit shall include a description of the property sufficient to reasonably identify the immovable and a statement of facts listing the approximate cost or costs incurred by the town.

(e) The privilege and lien shall be enforced by ordinary process in the Second Judicial District Court in and for Claiborne Parish, Louisiana, within three (3) years after it is perfected. Alternatively, the privilege and lien may be enforced by assessing the amount of the privilege and lien against the immovable as a tax against the immovable, to be enforced and collected as any ordinary property tax lien to be assessed against the property; said lien and privilege may be collected in the manner fixed for collection of taxes and shall be subject to the same civil penalties for delinquencies. After the Town of Homer has incurred such costs as constitute the lien and privilege on the property, the mayor may send an attested bill of said costs and expenses which constitute the lien and privilege to the town clerk and tax collector, who shall add the amount of said bill to the next tax bill of the owner. The lien obtained by the town pursuant to proper notification and filing shall include not only the costs provided for in subsection (a) of this section, but shall include all attorney's fees and/or all costs of court incurred in the locating of the owner, the notification of the owner, and the enforcement and collection of the amount secured by the lien against the immovable and the improvements. The town may also recover interest on the amount secured by the lien. The interest shall not exceed the rate of legal interest as provided in Article 2924 of the Civil Code of Louisiana, and shall be computed from the date of recordation of the lien until paid. The privilege and lien of the

town shall prime all other liens or privileges against the property filed after the notice to the owner to show cause is filed with the recorder of mortgages pursuant to section 5-305, regardless of the date on which the lien and privilege of the town is perfected, except that the lien and privilege of the town will not prime other tax liens against the property.

(f) The lien shall not be cancelled until after payment of all amounts, including costs, attorney's fees and interest.

(g) In addition to the lien and enforcement procedures authorized under this section, the Town of Homer has a cause of action against the owner personally for the costs incurred by the town, if such owner is not indigent and has the ability to pay a judgment obtained by the town. Such action may be brought by ordinary proceeding in any court of competent jurisdiction.

- (h) (1) If property, which may be subject to a lien and privilege granted in favor of the town under this section, is owned in indivision and the owners in indivision, with their proportionate share in the property, are listed separately by the tax assessor on the ad valorem tax roll for the town, then the town shall notify each owner in indivision of his liability under this section.
- (2) Upon failure of each owner in indivision to pay his proportionate share of the charges incurred under this section, that part of the property for which the charges are not paid shall be subject to a lien and privilege in favor of the town, as provided in this section.
- (3) Notwithstanding the provisions of subsection (f) of this section to the contrary, upon payment by an owner in indivision of his proportionate share listed on the ad valorem tax roll for the town of the charges, attorney fees and interest incurred under this section, and after certification of such proportionate interest by the assessor, the lien and privilege granted under this section shall be removed from the proportionate interest of the paying owner in indivision. If outstanding charges levied under this section are added to the annual ad valorem tax bill, the proportionate payment by paying the owner in indivision shall be reflected on the bill and his interest in the property free of such charges shall be distinguished on the tax bill.
- (4) Notice of the lien and privilege required herein shall be made upon the owners in indivision at their actual address, or the last known address listed on the tax rolls of Claiborne Parish.

(Ord. No. 793, 12-7-93)

Sec. 5-311. Attorney to represent absentee, minor or interdict.

In the event the owner of a building or structure which is under consideration under the provisions of this article is absent from the State of Louisiana or is unrepresented herein or whose whereabouts are unknown, or in the event the building is owned by a minor who has no tutor or an interdict who has no curator, the mayor shall appoint an attorney at law to

represent the absentee, minor or interdict, upon whom the notices and other proceedings provided in this section shall be served. The attorney shall be paid a reasonable fee to be taxed as costs.

(Ord. No. 793, 12-7-93)

Sec. 5-312. Severability.

In the event that any provisions or sections of this Code, or the application thereof, is held invalid by a court of competent jurisdiction, such invalidity shall not effect other provisions, items or applications of this Code which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Code are hereby severable.

(Ord. No. 793, 12-7-93)

Sec. 5-313. Ordinances or resolutions in conflict with Code.

All ordinances or resolutions, or parts thereof, in conflict with this Code are hereby repealed.

(Ord. No. 793, 12-7-93)