TOWN OF JAMESTOWN, NORTH CAROLINA CODE OF ORDINANCES

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1981 SESSION LAWS, C. 370

CHAPTER 370

HOUSE BILL 716

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF JAMESTOWN AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Jamestown is hereby revised and consolidated to read as follows:

THE CHARTER OF THE TOWN OF JAMESTOWN.

ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES.

Section 1.1. Incorporation.

The Town of Jamestown, North Carolina in the County of Guilford and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the Town of Jamestown, hereinafter at times referred to as the 'Town'.

Section 1.2. Powers.

The Town of Jamestown shall have and may exercise all of the powers, duties, rights, privileges and immunities which are now or hereafter may be conferred, either expressly or by implication, upon the Town of Jamestown specifically or upon municipal corporations generally by this Charter, by the State Constitution, or by general or local law.

Section 1.3. Corporate Limits.

The corporate limits of the Town shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map of the Town, showing the current Town boundaries, shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map of the Town shall be made.

ARTICLE II. MAYOR AND TOWN COUNCIL.

Section 2.1. Governing Body.

The Mayor and Town Council, elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Mayor and Council may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

Section 2.2. Mayor; Term of Office; Duties.

The Mayor shall elected by and from the qualified voters of the Town for a term of two years, in the manner provided by Article III of this Charter; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government, shall preside at all meetings of the Town Council, and shall have the powers and duties of Mayor as prescribed by this Charter and the General Statutes. The Mayor shall have the right to vote on matters before the Council only where there are equal number votes in the affirmative and in the negative.

Section 2.3. Town Council; Terms of Office.

The Town Council shall be composed of four members, each of whom shall be elected for terms of two years, in the manner provided by Article III of this Charter; provided Council members shall serve until their successors are elected and qualified.

Section 2.4. Mayor Pro Tempore.

In accordance with applicable State laws, the Town Council shall appoint one of its members to act as Mayor pro tempore to perform the duties of the Mayor in the Mayor's absence or disability. The Mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

Section 2.5. Meetings of the Council.

In accordance with applicable State laws, the Council shall establish a suitable time and place for its regular meetings. Special meetings may be held according to applicable provisions of the General Statutes.

ARTICLE III. ELECTIONS.

Section 3.1. Regular Municipal Elections; Conduct.

Regular municipal elections shall be held in the Town every two years in odd-numbered years, and shall be conducted in accordance with the uniform municipal election laws of North

Carolina. The Mayor and members of the Council shall be elected according to the nonpartisan primary and election method as specified in G.S. 163-294.

Section 3.2. Election of the Mayor.

At the regular municipal election in 1931, and every two years thereafter, there shall be elected a Mayor to serve a term of two years. The Mayor shall be elected by the qualified voters of the Town voting at large.

Section 3.3. Election of Council Members.

At the regular municipal election in 1981, and every two years thereafter, there shall be elected four council members to serve terms of two years. The Council members shall be elected by the qualified voters of the Town voting at large.

ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

Section 4.1. Form of Government.

The Town shall operate under the Council-Manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

Section 4.2. Town Manager.

The Town Council shall appoint a Town Manager who shall be the administrative head of the Town government, and who shall be responsible to the Council for the proper administration of the affairs of the Town. The Town Manager shall hold office at the pleasure of the Town Council, and shall receive such compensation as the Council shall determine.

Section 4.3. Town Attorney.

The Town Council shall appoint a Town Attorney who shall be licensed to engage in the practice of law in the State of North Carolina. It shall be the duty of the Town Attorney to prosecute and defend suite against the Town; to advise the Mayor, Town Council and other Town officials with respect to the affairs of the Town; to draft all legal documents relating to the affairs of the Town; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend meetings of the Town Council; and to perform other duties required by law or as the Council may direct.

Section 4.4. Town Clerk.

The Town Manager shall appoint a Town Clerk to keep a journal of the proceedings of the Council, to maintain in a safe place all records and documents pertaining to the affairs of the Town, and to perform such other duties as may be required by law or as the Town Manager may direct.

Section 4.5. Town Finance Officer.

The Town Manager shall appoint a Finance Officer to perform the duties of the Finance Officer as required by the Local Government Budget and Fiscal Control Act.

Section 4.6. Town Tax Collector.

The Town Council shall appoint a Tax Collector to collect all taxes, licenses, fees and other revenues accruing to the Town, subject to the General Statutes, the provisions of the Charter and the ordinances of the Town. The Tax Collector shall diligently comply with and enforce all the laws of North Caolina relating to the collection of taxes and other revenues by municipalities.

Section 4.7. Consolidation of Functions.

The Town Council may provide for the consolidation of any two or more positions of Town Manager, Town Clerk, Tax Collector and Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

Section 4.8. Other Administrative Officers and Employees.

Consistent with applicable State laws, the Manager and Town Council may establish other positions, provide for the appointment of other administrative officers and employees, and generally organize the Town government in order to promote the orderly and efficient administration of the affairs of the Town.

ARTICLE V. PUBLIC IMPROVEMENTS.

Section 5.1. Power of Eminent Domain.

1. *Condemnation Procedures; Interest Acquired.* The Town of Jamestown shall possess the power of eminent domain, and may acquire, either by purchase or condemnation, any land, right of access, right of way, water right, privilege, easement, or any other interest in or relating to land or water, either within or beyond the town limits, including and limited to a right of way in and across lands owned or held as right of way by a railroad or other public utility

company (provided that the operation of such railroad or other public utility company may not be impaired unreasonably thereby), for any lawful public use or purpose. Unless otherwise expressly provided in the condemnation regulation, a fee simple title shall pass to the town upon the condemnation of any such interest. In any case where the owner of land to be condemned or of any interest therein is a minor, an insane person, or otherwise under any disability, any notice hereinafter required by this Article to be served upon such owner shall be served upon his guardian, and service upon such guardian shall be sufficient without service on the minor, insane person, or person under disability. Thereafter such guardian may exercise on behalf of his ward with respect to such condemnation proceeding all the powers conferred upon such person as owner. Water rights or other interests relating to water may be condemned under the procedure set forth in this Article for the condemnation of land and interests therein.

2. *Effort to Purchase Not Required.* It shall not be necessary to the condemnation by the town of any land or interest therein, whether pursuant to this Article or otherwise, that the town shall have attempted to acquire the needed land by grant or purchase prior to the commencement of condemnation proceedings.

3. *Resolution Proposing Condemnation.*

(a) When any land required by the town for any purpose allowed by this Charter or the general law of the State is proposed to be condemned under the specific provisions of this Charter, the town council shall adopt a resolution which shall contain substantially the following provisions:

(1) A description of the land proposed to be condemned in fee, or the interest or easement proposed to be condemned;

(2) If there is any building or other property situated wholly or partly upon the land to be condemned, the determination of the town council as to whether the owner shall be allowed to remove such property or whether the same shall be condemned;

(3) A statement of the purpose for which said land or easement is proposed to be condemned;

(4) The name and address of the owner or owners of said land and of any other person or persons interested therein whom it is necessary to make a party of the proceedings;

(5) The name of a disinterested freeholder of the town appointed as appraiser by the town council;

(6) A notice that the owner or owners of said land, or interest therein, or a majority in interest of said owners, may, within five days after service of said resolution upon all of them, appoint one appraiser (who shall be a disinterested freeholder of the town), to represent them, the name of which appraiser shall be reported in writing to the town clerk within said five days;

(7) A notice that the appraiser appointed by the town and the appraiser appointed by the owner or owners, or if the owner or owners fail to appoint, then the two appraisers appointed by the town, shall appoint a third appraiser, and that the three thus appointed shall consitute a board of appraisers, whose duty it sahll be to determine the damages and benefits which will result from the condemnation of said land and easement or interest therein;

(8) A notice of the time fixed for the first meeting of the appraisers, and that said meeting will be held upon the premises to be condemned.

(b) It shall not be necessary to institute separate condemnation proceedings against the several owners of tracts or parcels of land affected by proposed local improvements.

4. *Service of Resolution Proposing Condemnation.* A copy of the resolution proposing condemnation shall be personally served upon each of the owners of the land proposed to be condemned; provided, that if the resolution cannot be personally served upon any of the owners, then it may be served by publication once a week for two successive weeks in some newspaper published in the town which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three public places in the town.

5. *Failure of Owners to Appoint Appraiser.* If within five days after service of the resolution upon all of the owners, they or a majority in interest of them fail to appoint an appraiser and to report his name to the town clerk, the town council shall appoint a disinterested freeholder of the town to represent them.

6. *Appointment of Third Appraiser; Oath.* The appraiser appointed by the town council, and the appraiser appointed by the owner or owners, or if the owner or owners fail to appoint, then the two appraisers appointed by the town council, shall appoint a third appraiser, who shall be a disinterested freeholder of the town, and shall report his name to the town clerk. Each appraiser shall take an oath or affirmation that he will fairly and impartially discharge his duties as an appraiser.

7. *First Meeting of Appraisers.* At the time fixed by the resolution of condemnation, the appraisers shall meet on the premises proposed to be condemned. If for any reason a meeting cannot be held at the time fixed by the town council, then a meeting shall be held at another time fixed by the appraisers, in which case notice of the time and place of the meeting shall be personally served upon each of the owners of the land or easement proposed to be condemned, or if the notice cannot be personally served, it may be served by publication once a week for two successive weeks in some newspaper published in the town which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three public places in the town. The notice, whether given personally, by publication, or by positing, shall be served not less than five days prior to the date of the hearing. At the first meeting the appraisers shall view the premises affected by the proposed condemnation; and shall hear, but need not reduce to writing, any evidence as to damages and benefits that will result from the proposed condemnation presented by the owners or by the town. The appraisers may make their report at or after the hearing or they may, in their discretion, hold subsequent meetings.

8. *Subsequent Meetings; When Notice Required.* Subsequent meetings of the appraisers shall be held at such times and places as may be determined by them. Of such meetings no notice need be given either to the owners or to the town unless such meetings are to be public and for the purpose of hearing evidence. If held for such purpose, then unless such meeting is held at a time and place to which a former meeting of which the parties had lawful notice was adjourned, notice of the meeting shall be personally served upon all the parties, or, if such notice cannot be personally served, it may be served by publication once a week for two successive weeks in a newspaper published in the town which is qualified to carry legal notices, or, if there be no such newspaper, by posting in three public places in the town. The notice shall be served or publication or posting thereof completed not less than five days prior to the time fixed for the meeting.

9. *Determination of Damages and Benefits; Report.* In determining the compensation to be paid by the town for the land or easement condemned, the appraisers shall taken into consideration both the loss or damage which will result to the owners from the

condemnation of the land or easement and the benefits that will result to any remainder of such land from the improvement for which the land or easement is to be condemned, the benefits to include both benefits or advantages special to the land the benefits or advantages to the land in common with other lands affected by the improvement. The appraisers shall also take into consideration the value of any building or other property situated on the land proposed to be condemned if the owner is to be allowed to remove the building or other property, and the value thereof shall not be included in the compensation award. Having determined damages and benefits, the appraisers shall make their report to the town council, in which report the appraisers shall show separately the amount of damages, the amount of benefits, and the amount which shall be paid by the town if it finally condemns the land or easement. In the event the property condemned is subject to a recorded lease or leases, the appraisers shall apportion the award between or among the person or persons owning the fee or fees and the person or persons owning the leasehold interest or interests, but in no event shall the total of the amounts so apportioned exceed the value of the property were it not subject to a recorded lease or leases. The report shall be sufficient if it is concurred in by two or three appraisers. In the event that no two of the three appraisers can agree upon an appraisal, three new appraisers may be appointed in the same manner as the original appraisers, and the new appraisal board shall follow the same procedure as required of the original appraisal board.

10. *Action of Council on Report.* Within thirty days after the report of the appraisers is submitted to the town council, the council shall determine what action it will take thereon. If the council determines to abandon the proposed condemnation, it shall adopt a resolution to that effect; but the abandonment of the condemnation shall not prevent the town council from thereafter instituting a proceeding to condemn the same land or easement. If the council determines to condemn the land or easement, it shall adopt a resolution which shall contain substantially the following:

(1) A recital that a board of appraisers has been appointed to determine the compensation to be paid for the land or easement, as provided by this Charter, and that the appraisers have submitted their report to the council;

(2) A statement of the amount of damages and benefits as fixed by the appraisers and of the compensation to be paid by the town for the land or easement condemned as fixed by the appraisers;

(3) The determination of the council as to the condemnation of the land or easement;

(4) A description of the land condemned in fee or of the easement condemned;

(5) A statement of the purpose for which the land or easement is condemned;

(6) The name of the owner or owners of the land and of other persons interested therein who were made parties to the proceeding;

(7) The determination of the council as to the time when the town will take possession of the land or easement condemned, and a direction that such premises shall be vacated by such time, and in case the owner is allowed to remove any building or part thereof or any other property on the premises, a direction that such property shall be removed before said date and that if the owner fails to remove the same within said time, the council will have the same removed and the cost thereof shall be a lien upon the remainder of the property.

11. *Vesting of Title in Town.* The adoption of the town council of a final resolution of condemnation, as provided in the preceding Section shall have the effect of a judgment against

the Town of Jamestown for the amount of compensation fixed by the appraisers and shall vest in the town title to the land or easement condemned.

12. *Appeal to Superior Court.* If upon the adoption by the town council of a final resolution of condemnation, either the owner of the land or easement condemned or the town council itself is dissatisfied with the amount of the compensation to be paid for such land or easement as fixed by the appraisers, such owner or the town or both may, within ten days from the date of adoption of such resolution, appeal to the Superior Court of Guilford County. The party or parties appealing shall, within ten days, give notice of appeal to the other party by personal service if practicable and, if not, by publication of a notice one time in a newspaper published in the town which is qualified to carry legal notices. The appear or appeals shall not interfere with the vesting in the town of the title to the land or easement condemned or hinder the town in any way from proceeding with the improvements for which such land or easement was condemned, except that if the land or interest therein is owned by another public or quasi-public body, or by a railroad or public utility company, the vesting of title in the town shall not become effective until the court has rendered final judgment on the question of whether the condemnatio by the town is in the public interest, and has determined the amount of compensation to be awarded for the condemnation, in which case the court may, in its discretion, reduce the amount of land or interest therein which it shall allow to be condemned.

13. *Record upon Appeal.* Upon an appeal taken by either party, the town clerk shall certify a copy of the record in the condemnation proceeding to the Superior Court of Guilford County, and such appeal shall be tried as other actions of law. The record upon appeal shall be composed of the preliminary resolution of condemnation, the oath of appraisers, the report of appraisers, the final resolution of condemnation, and the notice or notices of appeal. The record upon appeal, or any part thereof shall be competent as evidence upon the trial of an appeal.

14. *Condemnation before Determination of Compensation.* When, in the judgment of the town council, the public interest requires that the town enter into immediate possession of any land, it shall adopt a resolution stating such necessity and the reason therefor, and condemning the required land or easement, and providing for the determination of the compensation to be paid by the town for the land or easement. The procedure therefor with respect to determination of such compensation shall follow as closely as practicable the provisions of this Article, or of the provisions of general law concerning “Eminent Domain”. This Section shall not apply to land, or interests therein, owned by another public or quasi-public body, or railroad or public utility company.

15. *Registration of Condemnation Proceedings.* In any case where any land or any easement therein has been or may hereafter be condemned by the town council, a copy of so much of the condemnation proceedings as may be necessary to show the land or easement therein condemned and the condemnation thereof shall be certified by the town clerk and the same, upon being probated by the Clerk of the Superior Court, or other person authorized by law to probate instruments for registration, shall be registered in the office of the Register of Deeds of Guilford County.

16. *Sale or Other Disposition of Land Condemned.* When any land condemned in fee by the town is no longer needed for the purpose for which it was condemned, the same may be used by the town for any other public purpose or may be sold or otherwise disposed of.

17. *Removal by City of Structures on Condemned Land; Lien.* When property upon which any building or other structure is wholly or partly located is condemned by the town under the provisions of this Charter or any other law, and the owner is allowed to remove such building

or structure or part thereof, the town council may, after the report of the appraisers has been made, name the time within which the owner may remove the building or structure, or part thereof, and if the owner fails to remove the same within said time, the council may remove the same and the cost thereof shall be a lien upon the remainder of said land, or such cost may be recovered by the town in any court of competent jurisdiction.

18. *Procedure Not Exclusive.* The condemnation procedure set forth in this Article shall not be exclusive, but shall be in addition to any other procedure provided by law.

19. *Procedure Not Applicable Outside of Guilford County.* The condemnation procedure set forth in Article 2 of Chapter 40 of the General Statutes of North Carolina and not the procedure set forth in this Article shall be applicable to the exercise of the power of eminent domain by the town for the condemnation of any land, right of access, right of way, water right, privileges, easement, or any other interest in or relating to land or water which is or are located outside of the geographic boundaries of Guilford County.

(Ord. 1961-6-1, passed 6-14-1961)

Editor's note:

G.S. Ch. 18A was repealed in 1981. Local Alcoholic Beverage Control Boards are now authorized and empowered under G.S. §§ 18B-700 through 18B-706.

ARTICLE VI. SPECIAL PROVISIONS.

Section 6.1. Alcoholic Beverage Control.

(a) The Town Council of the Town of Jamestown shall, upon a petition to said Council signed by at least fifteen percent (15%) of the registered and qualified voters of the Town of Jamestown, order an election to be held on the question of whether or not municipal liquor control stores may be operated in the Town of Jamestown, and if a majority of the votes cast in such election shall be for the operation of such stores, it shall be legal for a liquor control store or stores to be established and operated in the Town of Jamestown, but if a majority of the votes cast in said election shall be against the operation of liquor control store or stores, no such store or stores shall be established or operated in the Town of Jamestown under the provisions of this section.

(b) The Town Council of the Town of Jamestown may submit the question hereinabove mentioned and call a special election for the purpose of submitting said question on or after the 3rd day of June, 1961. In the event said special election is called the same shall be held and conducted on the date fixed by the Town Council of the Town of Jamestown. A new registration of voters for such election shall not be necessary, and all qualified voters who are properly registered prior to registration for the election and those who register in said liquor election shall be entitled to vote in said election. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, 'For Town Liquor Control Stores', 'Against Town Liquor Control Stores'. Those favoring establishing and operating liquor stores in the Town of Jamestown shall mark in the voting square to the left of the words, 'For Town Liquor Control Stores', printed on the ballot and those opposed to town liquor control stores shall mark in the voting square to the left of the words, 'Against Town Liquor Sontrol Stores'. Except as otherwise herein provided, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections

for the Town Council of the Town of Jamestown, and the cost thereof shall be paid from the General Fund of the Town of Jamestown.

(c) If a subsequent election shall be held and at such election a majority of the votes shall be cast Against Town Liquor Control Stores, the town liquor control board shall within three months from the canvassing of such votes and the declaration of the results thereof, close said stores and shall thereafter cease to operate the same, and within said three months the town liquor control board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of said board and convert the same into cash and turn the same over to the Town Clerk. Thereafter all Public, Public-Local and Private Laws applicable to the sale of intoxicating beverages within the Town of Jamestown in force and effect prior to the authorization to operate town liquor stores shall be in full force and effect the same as if such election had not been held and until and unless another election is held under the provisions of this section in which a- majority of the votes shall be cast 'For Town Liquor Control Stores'. No election shall be called and held in the Town of Jamestown under the provisions of this section within two years from the holding of the last election thereunder. It shall be the duty of the Town Council of the Town of Jamestown to order the liquor election therein authorized within sixty (60) days after a petition signed by fifteen percent (15%) of the registered and qualified voters of the Town of Jamestown requesting the same has been presented and filed with the Town Clerk.

(d) If the operation of Town liquor control stores is authorized under the provisions of this section, the Town Council of the Town of Jamestown shall immediately create a Town Board of Alcoholic Control to be composed of a chairman and two other members who shall be well known for their good character, ability and business ability. Said board shall be known and designated as 'The Town of Jamestown Board of Alcoholic Control'. The chairman of said board shall be designated by the Town Council of the Town of Jamestown and shall serve for his first term a period of three years. The other two members of the Board of Alcoholic Control shall be designated by the Town Council of the Town of Jamestown, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; all terms shall begin with the date of appointment, and after the said term shall have expired, successors in office shall serve for a period of three years. Their successors shall be named by the Town Council of the Town of Jamestown. Any vacancy shall be filled by the Town Council for the unexpired term. Compensation of the members of said Town of Jamestown Board of Alcoholic Control shall be fixed by the Town Council of the Town of Jamestown.

(e) The said Town of Jamestown Board of Alcoholic Control shall have all of the powers and duties imposed by the General Statutes of North Caolina on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control as provided in the General Statutes of North Carolina, except that no liquor control store shall be located in any area zoned as 'residential' as of June 14, 1961. The said Town of Jamestown Board of Alcoholic Control, and the operation of any town liquor store or stores authorized under the provisions of this section shall be subject to and in pursuance of the provisions of Chapter 18A of the General Statutes of North Carolina except to the extent to which the same may be in conflict with the provisions of this section. In said Chapter 18A of the General Statutes, wherever the word 'County' board of alcoholic control appears, it shall be deemed to include the Town of Jamestown Board of Alcoholic Control. The Town of Jamestown Board of Alcoholic Control shall have authority to

employ legal counsel and such other employee as it may deem wise and to fix their compensation. Any law enforcement officer appointed by said Town of Jamestown Board of Alcoholic Control shall have all of the powers provided for law enforcing officers as set forth in Chapter 18A of the General Statutes of North Carolina.

(f) Out of profit remaining after the payment of all cost, capital expenditures and operating expenses, the Town of Jamestown Board of Alcoholic Control shall expend a sum not less than five percent (5%) nor more than ten percent (10%) of such profit for law enforcement purposes, education as to the effects of the use of alcoholic beverages and for the rehabilitation of alcoholics. Said board shall also retain out of such profit a sufficient and proper working capital, the amount thereof to be determined by said board. Such profit as shall thereafter remain shall, at the end of each quarterly period following the established of liquor control store or stores, be paid out and distributed as follows:

(1) Thirty percent (30%) shall be allocated and distributed, upon the basis herein provided, to the General Funds of Guilford County and to the general funds of the municipal corporations, other than the Town of Jamestown, located in said county, until they shall establish liquor control stores or unless they shall have established liquor control stores. The amounts distributable to said county and to each of said municipal corporations shall be determined upon the basis of population therein as shown by the latest Federal decennial census; provided, however, the population of said county shall be the entire population of said county exclusive of the population of all of the municipal corporations located therein. Upon the establishing of liquor or alcoholic beverage control store or stores by any municipality located in Guilford County, and in the event any municipal corporation therein has established and in operation alcoholic beverage control stores at the time of the establishment of alcoholic control stores in the Town of Jamestown, other than the Town of Jamestown, the distributive share of such profits which would be payable to such city or. town during the period such stores are operated by any such city or town shall be paid by said Town of Jamestown Board of Alcoholic Control to the Town of Jamestown in the same manner and for the same purposes set forth in Subsection (2) of this section.

(2) Seventy percent (70%) shall be allocated and distributed to the Tax Collector of the Town of Jamestown and may be used by the Town of Jamestown in the operation of the water and sewer systems of the Town for debt service, for the general fund, or for any other public purpose."

Editor's note:

G.S. Ch. 18A was repealed in 1981. Local Alcoholic Beverage Control Boards are now authorized and empowered under G.S. §§ 18B-700 through 18B-706.

Section 2. The purpose of this act is to revise the Charter of the Town of Jamestown and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are consolidated into this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Section 3. This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not such acts, portions of acts, or amendments are expressly set forth herein:

(a) Any acts concerning the property, affairs, or government of public schools in the Town of Jamestown;

(b) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

Section 4. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

Chapter 109, Laws of 1816
Chapter 142, Private Laws of 1828-29
Chapter 214, Private Laws of North Carolina, 1858-1859
Chapter 142, Private Laws of North Carolina, 1868-1869
Chapter 1014, Public Laws of North Carolina 1907
Chapter 44, Public-Local Laws, Extra Session 1913
Chapter 700, Session Laws of 1947
Chapter 144, Session Laws of 1953
Chapter 847, Session Laws of 1953, as to the Town of Jamestown
Chapter 792, Session Laws of 1961
Chapter 821, Session Laws of 1961
Chapter 776, Session Laws of 1969.

Section 5. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests, whether public or private:

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

Section 6. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law; or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

Section 7.

(a) All existing ordinances and resolutions of the Town of Jamestown and all existing rules or regulations of departments or agencies of the Town of Jamestown, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending at the effective date of this act by or against the Town of Jamestown or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Section 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidility shall not affect other provisions or applications of this act which can by given effect without the invalid provision of application, and to this end the provisions of this act are declared to be severable.

Section 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, repealed or superseded, the reference shall be deemed amended to refer to the amended General Statutes, or to the General Statute which most clearly corresponds to the statutory provision which is repealed or superseded.

Section 10. City Automobile License Tax. G.S. 20-97(a) is amended by adding immediately after the words “Town of Stoneville” each time they appear the words, “Town of Jamestown”.

Section 11. This act is effective upon ratification. In the General Assembly read three times and ratified, this the 12th day of May, 1981.

JAMES C. GREEN
James C. Green, President of the Senate
LISTON B. RAMSEY
Liston B. Ramsey, Speaker of the House of Representatives

TITLE I: GENERAL PROVISIONS

Chapter
10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section
10.01 Title of code
10.02 Interpretation
10.03 Application to future ordinances
10.04 Captions
10.05 Definitions
10.06 Rules of interpretation
10.07 Severability
10.08 Reference to other sections
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10.12 Reasonable time; computing time
10.13 Ordinances repealed
10.14 Ordinances unaffected
10.15 Effective date of ordinances
10.16 Repeal or modification of ordinances
10.17 Ordinances which amend code; effect of new ordinances
10.18 Section histories; section headings; statutory references

10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Jamestown shall be designated as the *Code of Jamestown, North Carolina* and may be so cited.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions*. For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHARTER. The Charter of the Town of Jamestown, North Carolina.

CODE, THIS CODE or ***THIS CODE OF ORDINANCES.*** This municipal code, as modified by amendment, revision and adoption of new titles, chapters or sections.

COMPUTATION OF TIME. The time within which an act is to be done shall be computed by excluding the first and the last day; and, if the last day is Saturday, Sunday or a legal holiday, that day shall be excluded.

COUNCIL. The Mayor and Council, or governing body, of the Town of Jamestown, North Carolina.

COUNTY. The County of Guilford, North Carolina.

G.S. or ***GENERAL STATUTES.*** The latest edition of the General Statutes of North Carolina, as amended.

GENDER. Words importing the masculine gender shall include the feminine and neuter.

GOVERNOR. The Governor of North Carolina.

JOINT AUTHORITY. All words giving a joint authority to three or more persons or officers shall be construed as giving the authority to a majority of persons or officers.

MAY. The act referred to is permissive.

MONTH. A calendar month.

NUMBER. Words used in the singular include the plural, and the plural includes the singular number.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath; and, in those cases, the words ***SWEAR*** and ***SWORN*** shall be equivalent to the words ***AFFIRM*** and ***AFFIRMED***.

OFFICER, OFFICE, EMPLOYEE, COMMISSION or ***DEPARTMENT.*** An officer, office, employee, commission or department of the town unless the context clearly requires otherwise.

OFFICIAL TIME STANDARD. Whenever certain hours are named in this code, they shall mean standard time or daylight saving time as may be in current use in the town.

OWNER. Applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of the property.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms ***PERSON*** or ***WHOEVER***, as applied to any unincorporated entity, shall mean the partners or members thereof and, as applied to corporations, the officers or agents thereof.

PERSONAL PROPERTY. Every species of property, except real property.

PRECEDING or ***FOLLOWING.*** Next before or next after, respectively.

PROPERTY. Includes real and personal property.

REAL PROPERTY. Includes lands, tenements and hereditaments.

SHALL. The act referred to is mandatory.

SIDEWALK. Any portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

SIGNATURE or ***SUBSCRIPTION.*** Includes a mark when the person cannot write.

STATE. The State of North Carolina.

STREET. Any public way, road, highway, street, avenue, boulevard, parkway, dedicated alley, lane, viaduct, bridge and the approaches thereto within the town and shall mean the entire width of the right-of-way between abutting property lines.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have ***SUBCHAPTERS***.

TENANT or ***OCCUPANT.*** When applied to a building or land, shall include any person who occupies the whole or a part of the building or land, whether alone or with others.

TENSE. Words used in the past or present tense include the future as well as the past and present.

TOWN. The Town of Jamestown, in the County of Guilford, North Carolina.

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

ZONING ENFORCEMENT OFFICER. One designated by the Council.

Statutory reference:

Computation of time, see G.S. § 1-593

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this town shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(A) ***AND*** *or* ***OR***. Either conjunction shall include the other as if written "and/or", if the sense requires it.

(B) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of an act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this town exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, that spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text

as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within this town for the transaction of all municipal business.

§ 10.12 REASONABLE TIME; COMPUTING TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, ***REASONABLE TIME OR NOTICE*** shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

(A) All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

(B) Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this code;

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness;

(3) Any contract or obligation assumed by the town;

(4) Any ordinance fixing the salary of any town officer or employee;

(5) Any right or franchise granted by the town;

(6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving and the like, any street or public way in the town;

(7) Any appropriation ordinance;

(8) Any ordinance which, by its own terms, is effective for a stated or limited term;

(9) Any ordinance providing for local improvements and assessing taxes therefor;

(10) Any zoning ordinance or zoning map amendment;

(11) Any ordinance dedicating or accepting any subdivision plat;

(12) Any ordinance describing or altering the boundaries of the town;

(13) The administrative ordinances or resolutions of the town not in conflict or inconsistent with the provisions of this code;

(14) Any ordinance levying or imposing taxes not included herein;

(15) Any ordinance establishing or prescribing street grades in the town; and/or

(16) Any personnel ordinance.

(C) Nor shall any ordinance be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this chapter; and all ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Statutory reference:

Statutes not repealed by General Statutes, see G.S. § 164-7

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

§ 10.17 ORDINANCES WHICH AMEND CODE; EFFECT OF NEW ORDINANCES.

(A) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system hereof and printed

for inclusion herein. When subsequent ordinances repeal any chapter, section or division, or any portion thereof, the repealed portions may be excluded from this code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence that the subsequent ordinances numbered or omitted are readopted as a new code by the town.

(B) Amendments to any of the provisions of the code shall be made by amending provisions by specific reference to the section number of this code in language substantially similar to the following: "Section _____ of the Code of Ordinances, Town of Jamestown, North Carolina, is hereby amended as follows...." The new provisions shall then be set out in full as desired.

(C) If a new section not heretofore existing in the code is to be added, language substantially similar to the following shall be used: "The Code of Ordinances, Town of Jamestown, North Carolina, is hereby amended by adding a section, to be numbered _____ , which section shall read as follows:...." The new section shall then be set out in full as desired.

(D) All sections, subchapters, chapters or provisions desired to be repealed must be specifically repealed by section, subchapter or chapter number, as the case may be.

§ 10.18 SECTION HISTORIES; SECTION HEADINGS; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance and amending ordinances, if any, are listed following the text of the code section. *Example:* (Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. *Example:* (G.S. § 160A-11) (Ord. 10, passed 1-17-1980; Ord. 20, passed 1-1-1985)

(2) A statutory cite set forth as a "statutory reference" following the text of the section indicates that the reader should refer to that statute for further information. *Example:*

§ 39.01 PUBLIC RECORDS AVAILABLE.

This town shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see G.S. §§ 132-1 et seq.

§ 10.99 GENERAL PENALTY.

Any person, firm or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed $50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

Statutory reference:

Enforcement of ordinances, see G.S. §§ 14-4 and 160A-175

TITLE III: ADMINISTRATION

Chapter
30. TOWN COUNCIL
31. EMERGENCY MANAGEMENT
32. FINANCES

CHAPTER 30: TOWN COUNCIL

Section

Meetings of Council
30.01 Regular meetings
30.02 Special meetings
30.03 Adjourned meetings
30.04 Mayor shall preside
30.05 Order of business
30.06 Quorum
30.07 No quorum; Mayor may send for absentees
30.08 Meetings to be public

MEETINGS OF COUNCIL

§ 30.01 REGULAR MEETINGS.

There shall be held regular meetings of the Council of the town at the Town Hall on the third Tuesday evening of each month at 6:30 p.m., beginning with the month of 4-17-2012.
(Ord. 1978-1-1, passed 1-18-1978)

§ 30.02 SPECIAL MEETINGS.

Special meetings of the Council of the town may be called by the Mayor or by any two members of the Council of the town at any time to consider only such matters as shall be mentioned in the call for such special meeting; provided that, upon one day's written notice, special meetings may be held for the consideration of any matters which the Council might desire.
(Ord. 1978-1-1, passed 1-18-1978)

§ 30.03 ADJOURNED MEETINGS.

Any regular or special meeting of the Council, and any adjourned meeting thereof, may be adjourned to such time prior to the next regular meeting date as may be agreed upon by the Council.
(Ord. 1978-1-1, passed 1-18-1978)

§ 30.04 MAYOR SHALL PRESIDE.

The Mayor or, in his or her absence, the Mayor pro tempore or, in the absence of both, any member of the Council who may be designated (a quorum being present) shall take the chair at the hour appointed for any regular, adjourned or special meeting. The Mayor shall preserve order and decorum. He or she shall decide all questions of order subject to appeal to the Council. On every appeal, he or she shall have the right to assign his or her reason for his or her decisions, and any member of the Council may state the grounds for his or her appeal.
(Ord. 1978-1-1, passed 1-18-1978)

§ 30.05 ORDER OF BUSINESS.

The following order of business shall be observed in the transaction of all business before the Council:

(A) Reading of minutes;

(B) Correction of minutes, if necessary, and approval; and, when approved, the minutes shall be signed by the Mayor and Town Clerk;

(C) Reports of committees as may be designated from time to time;

(D) Unfinished business;

(E) Communications and petitions;

(F) Motions, resolutions and ordinances;

(G) New business; and

(H) Adjournment.

(Ord. 1978-1-1, passed 1-18-1978)

§ 30.06 QUORUM.

Any three Council members, or any two Council members and the Mayor, shall constitute a quorum for the transaction of business in any matter before the Council. A majority vote of the quorum shall control; except, in the matter of ordinances and resolutions, a majority of the members of the Council shall be required.
(Ord. 1978-1-1, passed 1-18-1978)

§ 30.07 NO QUORUM; MAYOR MAY SEND FOR ABSENTEES.

If a quorum of the Council be not present, the Mayor may send for absentees; and, if a quorum fails to attend, the meeting shall stand adjourned to such time as may be agreed upon by a majority of the members present.
(Ord. 1978-1-1, passed 1-18-1978)

§ 30.08 MEETINGS TO BE PUBLIC.

All sessions of the Town Council, whether regular, adjourned or special, shall be open to the public.
(Ord. 1978-1-1, passed 1-18-1978)

CHAPTER 31: EMERGENCY MANAGEMENT

Section

31.01 State of emergency
31.02 Proclamation imposing prohibitions and restrictions
31.03 Evacuation
31.04 Curfew
31.05 Restrictions on possession, consumption or transfer of alcoholic beverages
31.06 Restriction on possession, transportation and transfer of dangerous weapons and substances
31.07 Restrictions on access to areas
31.08 Prohibitions; restrictions
31.09 Removal of prohibitions and restrictions
31.10 Superseding and amendatory proclamations
31.11 Termination of proclamation
31.12 In case of absence or disability of Mayor
31.13 Effective date

31.99 Penalty

§ 31.01 STATE OF EMERGENCY.

(A) A state of emergency shall be deemed to exist whenever, during times of public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

(B) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the town or any part thereof, or threatening damage to or destruction of property, the Mayor of the town is hereby authorized and empowered under G.S. § 166A-19.22 to issue a public proclamation declaring to all persons the existence of such a state of emergency and, in order to more effectively protect the lives and

property of people within the town, to place in effect any or all of the restrictions hereinafter authorized.

(C) The Mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the town limits and to specific hours of the day or night; and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies and newspaper, magazine, radio broadcasting and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the town.

(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.02 PROCLAMATION IMPOSING PROHIBITIONS AND RESTRICTIONS.

(A) The Mayor of the town, by proclamation, may impose the prohibitions and restrictions specified in §§ 31.03 through 31.08 of this chapter in the manner described in those sections. The Mayor may impose as many of those specified prohibitions and restrictions as he or she finds are necessary, because of an emergency, to maintain an acceptable level of public order and services and to protect lives, safety and property. The Mayor shall recite his or her findings in the proclamation.

(B) The proclamation shall be in writing. The Mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the Town Hall. The Mayor shall send reports of the substance of the proclamation to the mass communications media which serves the affected area. The Mayor shall retain a text of the proclamation and furnish upon request certified copies of it for use as evidence.

(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.03 EVACUATION.

The Mayor may direct and compel the voluntary or mandatory evacuation of all or part of the population of the town, to prescribe routes, modes of transportation and destination in connection with evacuation; and to control ingress and egress of a disaster area, the movement of persons within the area and the occupancy of premises therein. Details of the evacuation may be set forth or amended in a subsequent proclamation, which shall be well publicized.

(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.04 CURFEW.

(A) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class.

The proclamation shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies. The Mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the Mayor finds necessary for the preservation of the public health, safety and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(B) Unless otherwise specified in the proclamation, the curfew shall apply, during the specified period, each day until the Mayor by proclamation removes the curfew.

(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.05 RESTRICTIONS ON POSSESSION, CONSUMPTION OR TRANSFER OF ALCOHOLIC BEVERAGES.

The proclamation may prohibit the possession or consumption of any alcoholic beverage, including beer, wine and spirituous liquor other than on one's own premises, and may prohibit the transfer, transportation, sale or purchase of any alcoholic beverage within the area of the town described in the proclamation. The proclamation, if imposed, may apply to transfers of alcoholic beverages by employees of Alcoholic Beverage Control stores as well as by anyone else within the geographical area described.

(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.06 RESTRICTION ON POSSESSION, TRANSPORTATION AND TRANSFER OF DANGEROUS WEAPONS AND SUBSTANCES.

(A) The proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. The Mayor may exempt from some or all of the restrictions classes of people whose possession, transfer or transportation of certain dangerous weapons or substances is necessary to the preservation of the public's health, safety or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(B) (1) The term ***DANGEROUS WEAPON OR SUBSTANCE***, as used in this section, means:

(a) Any item described as a "dangerous weapon or substance", as defined in G.S. § 14-288.1;

(b) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so used; and

(c) Any part or ingredient in any instrument or substance included above when the circumstances indicate a probability that such a part or ingredient will be so used.

(2) Except that, this section does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this section, ***FIREARM*** has the same meaning as it does under G.S. § 14-409.39(2).

(C) If imposed, the restrictions shall apply throughout the jurisdiction of the town or such part hereof as designated in the proclamation.

(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.07 RESTRICTIONS ON ACCESS TO AREAS.

(A) This proclamation may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order, clearly posted notice or barricade indicating that access is denied or restricted.

(B) Areas to which access is denied or restricted shall be designated by the Chief of Police/Sheriff and his or her subordinates when directed in the proclamation to do so by the Mayor. When acting under this authority, the Chief of Police/Sheriff and his or her subordinates may restrict or deny access to any area, street, highway or location within the town if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.08 PROHIBITIONS; RESTRICTIONS.

The proclamation may prohibit or restrict:

(A) Movements of people in public places;

(B) The operation of offices, business establishments and other places to or from which people may travel or at which they may congregate; and/or

(C) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.09 REMOVAL OF PROHIBITIONS AND RESTRICTIONS.

The Mayor shall, by proclamation, terminate the entire declaration of emergency or remove the prohibitions and restrictions as the emergency no longer requires them, or when directed to do so by the Town Council.

(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.10 SUPERSEDING AND AMENDATORY PROCLAMATIONS.

The Mayor, in his or her discretion, may invoke the restrictions authorized by this chapter in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in § 31.02 of this chapter.

(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.11 TERMINATION OF PROCLAMATION.

Any proclamation issued under this chapter shall expire five days after its last imposition unless sooner terminated in writing under the same procedures set forth in § 31.02 of this chapter for proclamations.
(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.12 IN CASE OF ABSENCE OR DISABILITY OF MAYOR.

In case of the absence or disability of the Mayor, the Mayor pro tem, or such other person as may be designed by the Town Council, shall have and exercise all of the powers herein given the Mayor.
(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.13 EFFECTIVE DATE.

This chapter took effect on 4-15-1986.
(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

§ 31.99 PENALTY.

Any person violating any prohibition or restriction imposed by a proclamation authorized by this chapter shall be guilty of a misdemeanor punishable, upon conviction, by a fine not exceeding $50 or imprisonment not exceeding 30 days, as provided by G.S. § 14-4.
(Ord. 1986-4-1, passed 4-15-1986; Ord. passed 7-16-2013)

CHAPTER 32: FINANCES

Section

Procedures for Disposing Personal Property

32.01 Authorization of Town Manager or Finance Director
32.02 Disposal
32.03 Sale of property
32.04 Record to be kept

Purchasing Policy

32.15 Grant of authority
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Statutory reference:

Personal property disposition; related provisions, see G.S. § 160A-266(c) Purchasing; related provisions, see G.S. § 143-129(a)

PROCEDURES FOR DISPOSING OF PERSONAL PROPERTY

§ 32.01 AUTHORIZATION OF TOWN MANAGER OR FINANCE DIRECTOR.

The Town Manager, or Finance Director, is hereby authorized to dispose of any surplus personal property owned by the town, whenever he or she determines, in his or her discretion, that:

(A) The item or group of items has a fair market value of less than $30,000;

(B) The property is no longer necessary for the conduct of public business; and

(C) Sound property management principles and financial considerations indicate that the interests of the town would best be served by disposing of the property.

(Ord. 2006-3-1, passed 3-21-2006)

§ 32.02 DISPOSAL.

The Town Manager, or Finance Director, may dispose of any such surplus personal property by any means which he or she judges reasonably calculated to yield the highest attainable sale price in money or other consideration, including, but not limited to, the methods of sale provided in G.S. Ch. 160A, Art. 12. Such sale may be public or private, and with or without notice and minimum waiting period.

(Ord. 2006-3-1, passed 3-21-2006)

§ 32.03 SALE OF PROPERTY.

The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the town if greater value may be obtained in that manner, and the Town Manager, or Finance Director, is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Town Manager, or Finance Director, may retain the property, obtain any reasonably available salvage value, or cause it to be disposed of as waste material. No surplus property may be donated to any individual or organization, except by resolution of the Town Council.

(Ord. 2006-3-1, passed 3-21-2006)

§ 32.04 RECORD TO BE KEPT.

The Town Manager, or Finance Director, shall keep a record of all property sold under authority of this subchapter and that record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.
(Ord. 2006-3-1, passed 3-21-2006)

PURCHASING POLICY

§ 32.15 GRANT OF AUTHORITY.

Subject to the restrictions and conditions hereinafter provided, when purchasing apparatus, supplies, materials or equipment for use by the town, in addition to such authority as may be provided by law and/or otherwise delegated by the Town Council, the Town Manager or Finance Director shall have the authority to:

(A) Prepare, or cause to be prepared, plans and/or specifications setting forth a complete description of the items(s) to be purchased and the characteristics, features and/or requirements therefor;

(B) Includes, where appropriate, in specifications for the item(s) to be purchased an opportunity for bidders to purchase as trade-in specified personal property owned by the town;

(C) Advertise, or otherwise secure bids, for such item(s), if required under applicable law;

(D) Award contracts for the purchase of the item(s) and, where applicable, award contracts for the purchase of the item(s) and the sale of trade-in property;

(E) Reject bids;

(F) Readvertise to receive bids;

(G) Waive bid bond or deposit requirements;

(H) Waive performance and payment bond requirements; and

(I) Execute and deliver the purchase contract(s).

(Ord. 1998-1-1, passed 1-20-1998)

§ 32.16 REPORT.

(A) At the first meeting of the Town Council following the award of any contract(s) pursuant to this subchapter, the Town Manager, or Finance Director, shall submit a report to the Town Council summarizing the bids received and the contract(s) awarded.

(B) Such report shall be included in the minutes of the meeting at which it is received.
(Ord. 1998-1-1, passed 1-20-1998)

§ 32.17 EXTENT OF AUTHORITY.

Except in cases of sole source purchases pursuant to applicable state law and cases of purchases from established contracts pursuant to G.S. § 143-129(g), unless otherwise provided by law, the provisions of this subchapter shall apply to the purchase of apparatus, supplies, materials or equipment required for use by the town.
(Ord. 1998-1-1, passed 1-20-1998)

§ 32.18 NO LIMITATION OF OTHER AUTHORITY.

The provisions of this subchapter are not intended to limit, restrict or revoke, in any manner, authority otherwise granted and/or delegated to the Town Manager or Finance Director by statute, law or action of the Town Council.
(Ord. 1998-1-1, passed 1-20-1998)

§ 32.19 APPROPRIATION REQUIRED.

No purchase shall be made by the Town Manager or Finance Director under authority of this subchapter unless an appropriation for such purpose has been authorized in the annual budget, or by supplemental appropriation or budget appropriation amendment duly adopted by the Town Council.
(Ord. 1998-1-1, passed 1-20-1998)

§ 32.20 APPLICATION OF GENERAL STATUTES.

In acting, pursuant to the authority delegated by this subchapter, the Town Manager or Finance Director shall comply with the requirements of G.S. Ch. 143, Art. 8, as from time to time amended, modified, supplemented, revised or superseded, to the same extend as would have otherwise applied to the Town Council.
(Ord. 1998-1-1, passed 1-20-1998)

MONTHLY 911 CHARGE

§ 32.35 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

911 SYSTEM or ***911 SERVICE.*** An emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term ***911 SERVICE*** also includes ***ENHANCED 911 SERVICE***, which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by

selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features.

911 CHARGE. A contribution to the county for the 911 service start up equipment costs, subscriber notification costs, addressing costs, billing costs and non recurring and recurring installation, maintenance, service and network charges of a service supplier providing 911 service.

EXCHANGE ACCESS FACILITY. The access from a particular telephone subscriber's premises to the telephone system of a service supplier. ***EXCHANGE ACCESS FACILITIES*** include service supplier provided access lines, PBX trunks and centrex network access registers, all as defined by tariffs of the telephone company as approved by the state's Utilities Commission. ***EXCHANGE ACCESS FACILITIES*** do not include service supplier owned and operated telephone pay station lines, or wide area telecommunication service (WATS), foreign exchange (FX) or incoming only lines.
(Ord. 1990-4-1, passed 4-17-1990)

§ 32.36 EXPENDITURES OF 911 SUBSCRIBER FEES.

(A) *Administration.* Fees, less the 1% administrative fee permitted by law, collected on behalf of the county and the municipalities within its boundaries will be remitted by the service providers to the county's Finance Officer. The Finance Officer shall coordinate all receipts and disbursements in accordance with the statues of the Public Safety Telephone Act of 7-6-1989, being G.S. §§ 62A-40 et seq.

(B) *Payments from Fund.* Money from the Fund shall be used for the following items:

(1) The lease, purchase or maintenance of emergency telephone equipment, including necessary computer hardware, software and database provisioning and addressing;

(2) Rates associated with the service providers' 911 service and other service supplier recurring costs; and

(3) Reimbursement of expenses incurred by the county, the Cities of Greensboro and High Point, and the Towns of Gibsonville and Jamestown in establishing and operating the 911 system until the effective date of the ordinance establishing a user fee for 911 service. Such costs shall not include staff expenses.

(C) *Reimbursements.* Reimbursements of prior years' 911 expenditures to the county, towns and cities will be made on a quarterly basis. Those revenues remaining after all on-going (recurring) costs have been paid will be allocated to the participating local governments based on the prior years expenditure outflow and the original contractual arrangement. Thus, cost recoupments would first reflect recovery of the initial service installation costs and secondly the prior years operating costs. The operating cost reimbursement would be based on the existing contracted cost sharing (Guilford County: 50%; City of Greensboro: 35.43%; City of High Point: 13.46%; Gibsonville: 0.65%; and Jamestown: 0.46%) until each local government has been reimbursed for all its prior costs. The county's Finance Department will be responsible for coordinating the revenues, expenditures and other related disbursements.

(D) *Enhancements.* The jurisdictions will mutually agree on further enhancements to the existing 911 system and will agree on the basis for reimbursement of expenses such as data base management.
(Ord. 1990-4-1, passed 4-17-1990)

TITLE V: PUBLIC WORKS

Chapter
50. GENERAL PROVISIONS
51. SOLID WASTE
52. OPERATION OF WATER AND WASTEWATER SYSTEM
53. SEWER USE
54. WATERSHED PROTECTION

CHAPTER 50: GENERAL PROVISIONS

Section
50.01 Posting of partial payments
50.02 Water/sewer extension policy

§ 50.01 POSTING OF PARTIAL PAYMENTS.

(A) Per G.S. § 160A-314 (b), Posting of Partial Payments, all payments for utility fees, whether full or partial payments, shall be applied to the customer's account as follows:

(1) First: to any reconnect fees;
(2) Second: to any return check fees;
(3) Third: to any miscellaneous charges;
(4) Fourth: to any late fees;
(5) Fifth: to garbage fees;
(6) Sixth: to sewer charges; and
(7) Seventh: to water.

(B) In the event of partial payments, the water charges will be considered outstanding and the disconnection for non-payment will be enforced in accordance with Ch. 52 of this code of ordinances and the town's utility payment policy effective 10-1-2012.
(Ord. 2014-8-1, passed 8-19-2014)

§ 50.02 WATER/SEWER EXTENSION POLICY.

(A) The extension of any water lines in the town shall be made at the expense of the property owner or owners and subject to the approval of the Town Manager.

(B) Any such extension of water lines shall become the property of the town.
(Ord. 2007-2-1, passed 2-20-2007)

CHAPTER 51: SOLID WASTE

Section

51.01 Definitions
51.02 Rules and regulations authorized
51.03 Ownership of materials
51.04 Dumping solid waste and the like on open lots prohibited; exception for landfilling
51.05 Littering
51.06 Refuse to be promptly removed
51.07 Transportation of refuse by private persons
51.08 Refuse not collected by the town
51.09 Refuse from outside corporate limits
51.10 Collection routes and schedules
51.11 Service for persons who are physically disabled
51.12 Curbside collection service
51.13 Medical wastes and sharps
51.14 Administration and enforcement

51.99 Penalty

§ 51.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASHES. Refuse from the burning of wood, coal, paper and/or other combustible material which has been wetted and cooled to the touch prior to collection.

BUSINESS. A corporation, industry, company, retail, landlord and/or other entity engaged in a for-profit endeavor.

COLLECTION. The act of removing solid waste from a point of generation to an approved disposal site. ***COLLECTION*** shall be at the curb for garbage, yard waste, recyclables and bulky items.

GARBAGE. All putrescible waste that is solid waste capable of being decomposed by micro- organisms with sufficient rapidity to cause nuisances from odors and gasses, such as kitchen wastes, offal and carcasses, including animal offal and carcasses and recognizable industrial byproducts, but excluding sewage and human waste. Offal, carcasses and pet feces shall be securely bagged for collection.

HAZARDOUS WASTE. A solid waste, or combinations of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

LEAD ACID BATTERY. Any battery containing lead, acid or both.

LOOSE LEAVES. Tree/plant foliage that has fallen from tree/plants and has been placed along the street in rows or piles, not in bags for collection.

MEDICAL WASTE. Any solid waste which is generated in the diagnosis, treatment or immunization of human beings or animals, in research or pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste identified or listed pursuant to this chapter, radioactive waste, household waste as defined in 40 C.F.R. § 261.4(b)(1) in effect 7-1-1989, or those substances excluded from the definition of solid waste in this section.

OIL. Any oil new or used which has been refined from crude oil or synthetic oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and is economically recyclable.

RECYCLABLE MATERIAL. Those materials which are capable of being recycled, can be marketed at a value greater than the costs associated with processing and shipping that material to a buyer, and which would otherwise be processed or disposed of as solid waste. Examples of ***RECYCLABLE MATERIALS*** are as follows: newspaper and accompanying inserts, magazines, chip board, corrugated cardboard, mixed and office paper (excluding sanitary products), telephone books, plastic bottles (#l PETE), plastic containers (#2 HDPE), polyvinyl plastic (#3 V), low density plastic (#4 LDPE), polypropylene plastics (#5 PP), certain polystyrene plastics (#6 PS) and certain other plastics (#7 OTHER), steel cans, aluminum cans, glass containers and yard waste (leaves, brush, grass clippings) and other material determined to be ***RECYCLABLE*** by the Public Services Director.

REFUSE. All non-putrescible waste.

RESIDENT. Owner or occupant of a dwelling.

SHARPS. Includes needles and syringes with attached needles.

SHARPS CONTAINER. A container manufactured and approved for the disposal of sharps. The container must be rigid, leak-proof when in the upright position, puncture-resistant and shall be labeled with a water resistant universal biohazard symbol.

SOLID WASTE. Hazardous or non-hazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems; and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

(1) Fecal waste from fowls and animals other than humans;

(2) Solid or dissolved material in:

(a) Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to surface waters:

(b) Irrigation return flows; and

(c) Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits and granted under § 402 of the Water Pollution Control Act, as amended (Pub. Law No. 92-500), being 33 U.S.C. § 1342, and permits granted under G.S. § 143-215.1 by the Environmental Management Commission. However, any

sludges that meet the criteria for hazardous waste under RCRA shall also be a ***SOLID WASTE*** for the purposes of this chapter.

(3) Oils and other liquid hydrocarbons controlled under G.S. Ch. 143, Art. 21A. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a ***SOLID WASTE*** for the purposes of this chapter;

(4) Any source, special nuclear or byproduct material as defined the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011); or

(5) Mining rules covered by the state's Mining Act, G.S. §§ 74-46 through 74-68, and regulated by the state's Mining Commission (as defined under G.S. § 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a ***SOLID WASTE*** for the purposes of this chapter.

TOWN. The Town of Jamestown.

WHITE GOODS. Inoperative and discarded refrigerators, ranges, water heaters, freezers and other similar domestic and commercial large appliances.

YARD WASTE.

(1) Solid waste consisting solely of vegetative matter which includes, but is not limited to, tree limbs, grass clippings, weeds, bush clippings, leaves, brush and the like resulting from regular maintenance of yards, gardens and landscaping maintenance activities.

(2) ***YARD WASTE*** does not include entire trees, large tree trunks, stumps, or clearing activities. It also does not include any material generated by any commercial lawn maintenance, landscaping and/or tree companies.

(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014)

§ 51.02 RULES AND REGULATIONS AUTHORIZED.

The Town Manager may make such rules and regulations not inconsistent with this chapter as he deems advisable to safeguard the health and welfare of the citizens of the town in the disposal of garbage, ashes and other refuse.

(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014)

§ 51.03 OWNERSHIP OF MATERIALS.

(A) Wet and dry garbage, recyclable materials, yard waste, bulk trash, large appliances and other authorized materials which are properly placed by an owner or occupant of a property at curbside for collection, are deemed to be abandoned by such person(s) and become the property of the town or its authorized agent.

(B) Unauthorized materials may be denied pickup by town forces and shall become considered litter after a period of 48 hours.

(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014)

§ 51.04 DUMPING SOLID WASTE AND THE LIKE ON OPEN LOTS PROHIBITED; EXCEPTION FOR LANDFILLING.

(A) No solid waste, yard waste, special waste or other offensive material shall be dumped, thrown or allowed to remain on any lot or space within the town limits.

(B) However, the owner of any lot or parcel of land desiring to conduct a fill operation shall apply for the appropriate permits, and any fill operation shall be conducted in accordance with all local, state and federal rules, laws and conditions contained in the permit.

(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014) Penalty, see § 51.99

§ 51.05 LITTERING.

(A) It shall be unlawful to throw, place or deposit any refuse in any street, public place or on any private property within the town limits, except in town issued or approved containers as provided in this chapter, or as approved by the Town Manager or his or her designee.

(B) It shall be unlawful to place stumps or any other organic materials on any property, public or private, except in those specific areas designated for such use by the Town Manager or his or her designee.

(C) No solid waste or any other waste or offensive or disease-producing material shall be dumped in any lot or space within the town limits for the purpose of filling, or for any other purpose, without the consent of the Town Manager or his or her designee and the approval of the county's Environmental Health Division.

(D) (1) It shall be unlawful for any person to throw any garbage, peelings or miscellaneous litter upon any of the sidewalks in the town or upon the floors of any public buildings or other public places.

(2) It shall be unlawful for any person to place, drop or throw any litter, garbage, refuse, grass, shrubbery, tree clippings, bottles, cans or containers of any kind upon any median strip, alleyway, street or street right-of-way, park or grass strip, or upon the private premises of another without permission of the owner or person in control of such premises, or upon any public property; provided, however, that, the provisions of this section do not apply to those materials required to be placed for collection on the grass or park strip by this chapter.

(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014) Penalty, see § 51.99

Statutory reference:

Authority to regulate, collect and the like solid wastes, see G.S. § 160A-303.1

Littering, see G.S. §§ 14-399 et seq.

§ 51.06 REFUSE TO BE PROMPTLY REMOVED.

No refuse that has become decayed or that shall otherwise be a menace to health or cleanliness shall be allowed to remain in any dwelling house, hotel, boardinghouse, café, restaurant, lunch stand, fruit stand, meat market, store or other building or on any premises for longer than 48 hours.

(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014) Penalty, see § 51.99

§ 51.07 TRANSPORTATION OF REFUSE BY PRIVATE PERSONS.

It shall be unlawful to commercially collect, handle, haul or transport on any of the streets, public ways (alleys) or places of the town, any refuse without obtaining the necessary licenses to do work in the town.
(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014) Penalty, see § 51.99

§ 51.08 REFUSE NOT COLLECTED BY THE TOWN.

(A) Waste from the cleaning and dressing of any fish, flesh or fowl conducted by a commercial operation, such as fish markets, meat processing plants or other businesses of this nature will not be collected by the town.

(B) (1) No building materials or refuse from building operations, construction materials or remodeling projects generated/performed by a professional contractor will be collected by town forces. The contractor is responsible for disposal. (Solid waste forces will collect building materials from small remodeling projects done by the homeowner; up to the equivalent of a 95-gallon container capacity per project.)

(2) Town forces will not collect yard waste and yard debris from landscape and maintenance projects performed by landscaping companies unless prior arrangements and payment of required fees with the town have been made.

(3) Owners of dead animals shall be responsible for their removal and disposal.

(C) Animal or human excreta will not be collected by town forces.

(D) Neither infectious waste nor hazardous waste will be collected by town forces.

(E) Items banned from landfills, such as, but not limited to: tires; lead acid batteries; paints; lubricants; oil filters; anti-freeze; wooden pallets; computer equipment; electronics; and televisions shall not be collected by town forces. Items not approved for placement in landfills may be taken to the county's household hazardous waste recycling facility or other approved sites.

(F) Oxygen tanks and other medical equipment; propane tanks, all oil tanks used for household purposes; parts of campers, boats, camper shells, trailers; automotive parts, including, but not limited to, motors, doors, fenders, car seats or batteries from a residentially used premises and the like shall not be collected by the town forces.

(G) Town forces reserve the right not to service any authorized container that is contaminated and/or does not meet code requirements.
(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014) Penalty, see § 51.99

§ 51.09 REFUSE FROM OUTSIDE CORPORATE LIMITS.

No refuse, collected outside the corporate limits of the town shall be disposed of at any location within the town.
(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014) Penalty, see § 51.99

§ 51.10 COLLECTION ROUTES AND SCHEDULES.

The Public Services Director or his or her designee shall establish collection routes and schedules and may alter these routes and schedules from time to time. The Public Services Director or his or her designee may establish and revise from time to time a policy relating to the number of times per week the town will collect solid wastes from various classifications of premises and the maximum number of solid waste containers that the town will service on any one premises. No owner or occupant of any premises shall prohibit or prevent weekly solid waste collection services at the premises.
(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014) Penalty, see § 51.99

§ 51.11 SERVICE FOR PERSONS WHO ARE PHYSICALLY DISABLED.

(A) Special collection services for the physically disabled may be considered by the Public Services Director or his or her designee.

(B) As a courtesy, special collection service is available for garbage and recycling on a once per week basis, provided that prior approval has been granted by the Public Services Director, upon verification of a valid medical reason by a medical doctor for those persons who are physically unable to place their refuse and recyclable items at the street. The town also reserves the right to periodically verify the need to special collection service to residents who have been approved to receive the service. The town reserves the right to continue or discontinue the special collection service. The Public Services Director or his or her designee shall have the authority to determine the proper location for collected items for disabled residents.
(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014)

§ 51.12 CURBSIDE COLLECTION SERVICE.

(A) Curbside refuse collection shall be by bag-type container only and shall be serviced twice per week. No customer shall place more than eight 32-gallon sized bags for garbage service at one collection day.

(B) Yard waste and recyclable items shall be collected once per week.

(C) The town reserves the right to suspend, delay or alter the time of collection of one or all services temporarily should snow, ice, storms, flooding, extreme heat/cold or other conditions make it unsafe for the public or employees during collection operations.

(D) Town-served curbside collection services will be provided under the following conditions:

(1) *Curbside collections scheduling.* Town-served curbside collection services will be provided on a day designated for collection by the Public Services Director or his or her designee. Solid waste should not be placed at the curbside prior to the day proceeding the scheduled collection day.

(2) *Eligibility for service under this section.* Eligibility for solid waste services will be evaluated on a case-by-case basis by the Public Services Director or his or her designee. Solid waste services may be denied to any location by the Public Services Director or his or her designee. Failure to pay solid waste fees may lead to a discontinuation of collection services, at the discretion of the Public Services Director.

(3) *Approved solid waste containers.* Eligible customers shall use only town-approved containers for all solid waste removal by the town. The following provisions shall be complied with.

(a) Plastic bags serving as approved containers for solid waste collection by town forces and contracted collectors shall be properly secured at the bag opening with a twist tie or other means to eliminate any spillage of contents.

(b) Plastic bags to be used as wet and dry garbage containers shall be constructed from film made from high quality polyethylene or similar product. Bags shall withstand normal service handling when filled to a maximum weight of 50 pounds when securely closed with a twist tie.

(c) Plastic bags utilized for recycling pickup shall be made of a clear or translucent material to permit solid waste forces to easily see and evaluate the contents of the bag. Bags shall withstand normal service handling when filled to a maximum weight of 50 pounds when securely closed with a twist tie.

(d) Exceptions to approved containers must be authorized by the Public Services Director or his or her designee.

(4) *Placement of containers.*

(a) In order to collect solid waste, the owner or occupant of each business, or household shall place all solid waste in approved containers and place such solid waste containers between the curb or traveled portion of the street and the property line closest to the curb of the premises from which the same is placed at or before 7:00 a.m., on the day fixed for collection. Solid waste will be collected and removed on the day fixed therefore by the Public Services Director or his or her designee. Public notice shall be given of any change of collection day. Town collection personnel shall not provide service if denied reasonable access by parked vehicles, equipment, fixed objects, low hanging wires or other obstructions.

(b) The following rules shall apply for the removal of solid waste.

1. No wooden boxes, barrels or any other wooden receptacle, or any other receptacles except approved containers shall be used for collection of wet or dry garbage or recyclables. Solid waste collectors may remove all such wooden boxes and other receptacles, if so used. The customer will be notified of the non-conforming container and its use as a means of collection by town forces will be terminated. Any exceptions shall be evaluated on a case-by-case basis by the Public Services Director or his or her designee.

2. For the purpose of collection, placement of containers will be at ground level and the use of underground containers will not be permitted.

(5) *Spilled materials.* Spilled materials or overflow not caused by town collection crews shall be cleaned up immediately after such spillage or overflow by the property owner or occupant. Spilled solid waste materials caused by town collection crews shall be cleaned up immediately after such spillage occurs by said crew.

(6) *Recycling collection service.* Only recyclable materials should be placed in the containers. Mixing garbage, yard waste or other materials with recyclables will result in a notice of violation and no collection. Containers shall comply with divisions (D)(3), (D)(4) and (D)(5) above.

(7) *Yard waste collection service.*

(a) Yard waste collection shall be provided to residential units and small businesses as approved by the Public Services Director or designee.

(b) Yard waste shall be separated from all other refuse prior to collection. Collection forces shall collect yard waste as stated in division (D)(7)(a) above so long as it is properly prepared or bagged and in compliance with these regulations.

1. Grass clippings, small shrubbery clippings, leaves and other small lawn debris shall be collected at the curbside provided that they are placed in clear plastic bags or approved containers for collection. Such bags shall be clear or transparent, in good condition and of such size and weight that when full, do not weigh more than 50 pounds each and are such that one individual can easily pick up each bag, one at a time, for disposal. Plastic bags shall be secured at the top when placed at the curbside for collection.

2. Limbs and large shrubbery to be collected by town collection forces shall be no longer than six feet in length and not to exceed 50 pounds in weight and placed in an orderly manner at the curb.

3. Town forces will not collect yard waste and yard debris from landscape and maintenance projects performed by landscaping companies.

4. Tree trunks or tree stumps in excess of 50 pounds will not be collected by town collection forces.

5. Loose leaves shall be collected at the curbline by town forces during a set period established by the Public Services Director or his or her designee. Public notice of this period shall be given. All other times during the year, leaves shall be bagged or placed in approved containers.

6. Loose leaves may be placed at the edge of the road {not in the road, ditchline or curbline) for loose leaf collection during the late fall and early winter each year (typically October through February). Collection schedules will be advertised and published. No other yard waste shall be included or mixed with loose leaves (no sticks, brush or bagged leaves/grass).

(8) *Large appliance (white goods) collection.* Collection of large appliances (white goods) shall be provided as follows.

(a) White goods collection will be provided to residential units and small businesses as approved by the Public Services Director or designee.

(b) White goods collection will not be provided to commercial establishments or industries.

(c) Residents must call the town in order to schedule an appointment for appliance collection. Fees are required.

(d) Items not approved for placement in landfills may be taken to the county's household hazardous waste recycling facility or other approved sites.

(9) *Fees for solid waste services.* Fees for collection shall be instituted and approved by the Town Council.

(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014)

§ 51.13 MEDICAL WASTES AND SHARPS.

(A) No medical waste shall be deposited or permitted to be deposited in the waste stream. The Director of Public Services shall terminate solid waste collection services to any establishment at which a violation of this section occurs. Such termination is not a penalty, but

shall nevertheless be in addition to and not in lieu of the imposition of civil or criminal penalties for violation of this chapter.

(B) Sharps shall be placed in an approved sharps container, in accordance with § 51.01 of this chapter. Residential customers may bring sharps to the Town Hall, where the customer will complete any required chain-of-custody form(s) and place the approved container in the town's disposal box. Should a customer deliver any non-conforming material, damaged sharps container or otherwise cause contamination of the collected material, the customer shall pay for all associated disposal costs in addition to any civil or criminal penalties for violation of this chapter.

(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014)

§ 51.14 ADMINISTRATION AND ENFORCEMENT.

(A) *Responsibility.* The administration and enforcement of the provisions of this chapter shall be the responsibility of the Public Services Department.

(B) *Duty to comply and notice.* When an official of the town finds a violation of any provision(s) of this chapter, he or she shall notify the owner or occupant of the premises of the violation by posting a notice at the subject property, via certified mail, or by hand delivery to such person. Such person shall be required to remedy the violation within 14 days or else be subject to civil penalty as set out below. In addition, upon failure to remedy the violation, the official of the town may proceed to correct the violation and impose the civil penalty against the owner or occupant as hereinafter set out.

(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014)

§ 51.99 PENALTY.

(A) *Civil penalty assessment.* Any person who violates any provision of this chapter shall be subject to an assessment of a civil penalty in the amount of $50 for each violation. If the violation is not remedied within stated time period, the town may remedy the violation at the expense of the violator.

(B) *Service of citation.* After being notified as set forth under division (A) above and upon failure to remedy the violation within the prescribed time, a civil penalty shall be invoked in the form of a citation stating the nature of the violation, the amount of the civil penalty and directing the violator to pay the civil penalty within 15 days from the date of the citation. Such citation shall be served by either first class mail, personal service or posted at the subject property. Any of these methods of service shall be conclusively presumed to be valid, and no owner or occupant shall refuse service of the citation.

(C) *Non-payment.* If payment is not received within 15 days, in addition to other remedies for violation of this chapter, a civil action may be instituted in the nature of a debt to collect the civil penalties and court costs as may be assessed.

(D) *Payment.* The civil penalties imposed herein and the proceeds therefrom, as collected by payment, civil action or otherwise, shall belong to the town and shall be paid into the General Fund of the town under such conditions if any, as prescribed in the annual budget of the town. Fines should be mailed to the Town of Jamestown, PO Box 848, Jamestown, NC

27282 or fines may be paid at the Town Hall, 301 E. Main Street, Jamestown, NC. Payment should be made payable to the Town of Jamestown.
(Ord. 2013-03-01, passed 3-19-2013; Ord. passed 4-15-2014)

CHAPTER 52: OPERATION OF WATER AND WASTEWATER SYSTEM

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INTRODUCTION

§ 52.001 PURPOSE.

This chapter is intended to define the operations and methods for extensions to the town's utility systems. This chapter further establishes procedures for installing new services and the financial obligations thereto.
(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.002 OBJECTIVES.

(A) The town's primary objective is to provide reliable and affordable utility service to its existing customers. New customers to the system are therefore expected to share in a majority of the expense for their new services.

(B) The specific objectives of this chapter are to:

(1) Define how requests for new service shall be submitted to the town;
(2) Define the facilities necessary to provide new services;
(3) Define the construction responsibilities for these new facilities;
(4) Define the financial responsibilities for these new facilities; and
(5) Establish funding mechanisms for private contributions to publicly funded utility extensions.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCOUNT HOLDER. The person legally or equitably responsible for the payment of charges for water or sewer service on any premises.

AVAILABILITY FEE. A fee paid by all new customers to defray, in part, the cost of the existing major facilities through which service will be provided.

BUILDING. A structure as defined in the state's Building Code.

CAPACITY USE FEE. A fee charged to new customers in order to partially recover the cost of the capacity of the utility treatment systems used to serve them.

CONNECTION. The part of the water or wastewater service line which runs from the main to the property line, including all appurtenances to make the service complete and ready for use.

IMPROVED STREET. Any street having a wearing surface of concrete, brick, stone block, asphalt or any bituminous compound.

INFLOW. Water which enters the sanitary sewer system during rainfall events, through defective pipe or appurtenances in the sewer main or in the service connections or by way of illegal connections (i.e., roof drains, area drains).

LATERAL. The portion of the water or sewer connection which include the meter box, meter setter and connection, but excludes the meter.

MAIN. The water or wastewater pipe usually laid in a street generally running parallel to the property line which distributes water or collects wastewater.

MAJOR FACILITIES. Facilities defined by the town's Water and Wastewater Plan. ***MAJOR WATER FACILITIES*** generally consist of the treatment works, storage facilities, pumping facilities and water transmission lines 12 inches in diameter and larger. ***MAJOR WASTEWATER FACILITIES*** generally consist of the treatment works, pumping facilities with capacity in excess of 700 gallons per minute and sewers 12 inches in diameter and larger.

MINOR FACILITIES. Facilities to provide local service, which are not defined by the town's Water and Wastewater Plan.

OCCUPANT. The account holder who is actually in possession or control of any premises.

OWNER. The person having legal or equitable title to any premises.

PERSON. Any individual, partnership, co- partnership, firm, company, corporation, association, joint stock company, trust estate, government entity or their legal representative agents or assigns.

PREMISES. Land, building or other structure and appurtenances thereto.

SEWER. Town-owned sewer line. The public portion of the sanitary sewer system.

SERVICE LINE. Small line which may service a house or a limited number of structures and which may be in the street or on private property, connecting the customer to the town system at the point of sale.

SYSTEM DEVELOPMENT CHARGE. A fee paid by all new customers outside the town limits to defray, in part, the cost of extending the major facilities to new service areas.

TAP FEE. A fee paid by all new customers to defray, in part, the cost of the service connection and meter.

TOWN. Town of Jamestown, local municipality.

URBAN GROWTH AREAS.

(1) The areas around Jamestown considered by the town to be viable candidates for incorporation into the town.

(2) The areas are bounded by the urban growth boundary, as established by the Town Council, and are reflected in the town's various capital improvement plans.

WASTE (DOMESTIC). Wastewater generated from human waste or any wastewater with concentrations at or below the pollutant specific numerical concentrations published by the EPA as "domestic concentrations" and not subject to any other discharge standards or requirements.

WASTE (PROPERLY SHREDDED GARBAGE). The wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be

carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-quarter inch in any dimension.

WASTEWATER SYSTEM. Facilities for collecting, pumping, treating and disposing of wastewater and industrial waste.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

PROVISIONS OF SERVICE

§ 52.015 PETITION.

(A) Any interested party may request water and/or sewer service from the town, if the service is to be provided within the corporate limits and adequate public water and sewer lines are available adjacent to the property, service will be provided upon approval of plans and payment of the applicable fees. If the service is to be provided outside the corporate limits or requires extension of a service line, a formal petition for service shall be submitted to the Town Manager for consideration.

(B) Every application for water or wastewater service shall list on forms provided by the town; the property owners, the street on which the lot is located, and the number of the house and/or building. When the size of the service and the applicable fees of the connection have been determined and upon approval of plans, the applicant shall pay the fees and shall be issued a permit for the desired connection. The town shall have no responsibility for the design of a sprinkler or other fire protection system. Application for a connection to serve such a system shall be made exactly as outlined above except that the size of the connection desired shall be placed upon the application. The installation of water laterals and sewer laterals must be done by a licensed utility contractor. The installation of all laterals or settings of the required meters shall be done only after payment of appropriate fees and approval of an application for service. The town or a licensed utility contractor shall install water or sewer laterals from the main to the property line and shall be responsible for all excavations, laying of pipes, backfilling and pavement replacement. Installation by an approved utility contractor shall be by approved plans and shall be inspected by Department of Public Services personnel.

(C) All petitioners requesting new or modifications to existing utility service shall, at the request of the town, file a petition for annexation to the town. The town will generally consider annexation and extension of utilities to areas that fail within the town's area according to the annexation agreement boundaries established between the town and the cities of Greensboro and High Point. Failure to file a petition for voluntary annexation or satellite annexation on notice from the town shall result in immediate termination of water and/or sewer service.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.016 TOWN RESPONSE.

(A) Upon receipt of a petition to extend a water and/or sewer main, the Town Council has the following five options for response:

(1) Install the utility extension at the town's expense;

(2) Approve and allow the petitioner to install the utility extension at his or her expense;

(3) Install the utility extension at the petitioner's expense;

(4) Install and jointly finance the extension in cooperation with the petitioner; and

(5) Deny the request.

(B) The criteria under which an option will be chosen are generally defined herein; however, the Town Council may act according to any aforementioned option, which it feels is in the best interest of the town.

(C) The Town Council may also extend water and/or sanitary sewer mains on their own volition without receipt of a petition and assess the cost or collect utility fees as described herein, from those who connect to the main.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

SERVICE OUTSIDE CORPORATE LIMITS

§ 52.030 GENERAL POLICY.

(A) It is the general policy of the town to provide water and sewer utility services only to properties within the corporate limits of the town and to allow the extension of such lines to serve properties only within the corporate limits. No water or sewer service shall be provided to any property outside the corporate limits of the town unless the owner of that property petitions for voluntary annexation, and the Town Council approves that annexation prior to the receipt of water and sewer services, or the owner applies for and the property meets an exception to this general policy.

(B) Those exceptions are provided for in § 52.032 of this chapter, which follow.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

Cross-reference:

Plumbing regulations, see Ch. 152

§ 52.031 CONDITIONS OF SERVICE OUTSIDE CORPORATE LIMITS.

All water and wastewater service to new customers outside the corporate limits who are connecting onto water and/or wastewater lines which were not installed under the agreement between the town and the county shall be allowed to connect onto the respective lines only on the following conditions.

(A) Privilege fees, in lieu of assessments, shall be charged at the same rate as is currently applicable under the contract between the town and the county.

(B) Connection or capacity use fees shall be charged at the rate as specified for outside the corporate limits.

(C) An agreement shall be signed by the customer to abide by all pertinent laws, rules, regulations and contracts on file with the Town Clerk, including the following conditions.

(1) Any unpaid water or wastewater bill shall be owned by the person who is the account holder until fully paid. Future service may be denied to this account holder until previous balances are paid in full.

(2) (a) No deposit shall be required of an owner of any premise.

(b) Deposits shall be required of all tenants in accordance with this chapter.

(c) Deposits paid for new service can be used to pay off old delinquencies and existing balances may be transferred to new accounts.

(3) No person, other than a municipality, may sell or offer for sale any water purchased from the town.

(4) (a) Any property owner who is to be permitted to connect onto an existing town water and/or sewer line, or extend a water and/or sewer line shall prior to connecting or extending the lines execute a utility agreement and annexation petition with the town prior to connecting to or extending the line.

(b) Such agreement shall be binding upon the heirs and successors in title.

(5) In order for any property which is, or becomes, located within another municipality to receive or continue to receive water and/or wastewater services from the town, the owner or occupant shall pay those charges established pursuant to an agreement between that municipality and the town.

(6) (a) These provisions may be revised or modified at anytime by the Town Council.

(b) Such Council approved revisions, modifications or policy changes shall supersede these eligibility requirements.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.032 EXCEPTIONS TO THE GENERAL POLICY.

An owner of a property, that is located outside the corporate limits may be permitted to connect onto existing town water and sewer lines when the owner applies for an exception to the general policy and the following requirements are met.

(A) A technical review committee (TRC) determines that the property meets one of the following conditions:

(1) Annexation of the property is prohibited due to statutory or legal constraints;

(2) The city is unable to effectively deliver all services to the property; or

(3) The location of the property, relative to the location of the primary corporate limits and town services, makes the delivery of town services to the property impractical due to costs or physical constraints.

(B) All the following requirements shall be met.

(1) All plumbing fixtures and facilities shall be in compliance with the appropriate building codes and/or the county's Health Department regulations.

(2) The use of the property is limited to one dwelling unit or non-residential establishment located on a property three acres or less in size. However, the Town Council, upon a formal written request by the property owner, may approve service to a larger property or for more than one dwelling unit on a property if the Town Council determines that such actions are not in conflict with town interests.

(3) The owner executes a written agreement with the town, committing to submit a voluntary annexation petition upon request by the town, in accordance with division (D) below.

(C) Connections to town water or sewer lines shall not be authorized until the Town Council has received notice of the technical review committee's decision and such decision shall not be effective until the day after the next regular meeting of the Town Council.

(D) (1) Prior to a property receiving water and/or sewer services as an approved exception to this policy, all owner(s) of such property must execute a written agreement with the town.

(2) In such agreement and in return for water and sewer service, the property owners shall declare and agree that as long as the property remains outside the corporate limits of the town:

(a) The property shall be subject to the town's minimum outside water and sewer rate schedule for water and/or sewer service;

(b) The property shall not be further divided or subdivided to create more lots or principal building sites;

(c) The property owner, or their successors or assigns, upon sufficient notice by the town, shall execute any and all documents required to accomplish voluntary annexation;

(d) If following notice, the owner fails to execute action to accomplish voluntary annexation, then the city shall terminate water and/or sewer services to the property; and

(e) The owner shall not oppose or support opposition to an annexation initiated by the town that includes any or all the property to which water and sewer service was provided by the town pursuant to this policy.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

REQUIREMENTS OF CONNECTION

§ 52.045 REQUIREMENTS OF CONNECTION.

(A) Connections to town water and sewer lines are to be made within 30 days. Within 30 days from the time water and/or sewer lines are completed and ready for use, the abutting property owners shall cause such property to be connected to both water and/or sewer lines. If both water and sewer are available the property owner must connect to both at the time of connection, provided that the property owner is notified, in writing, of the installation of said

lines. The property owner shall have 30 days after such notification to make the connection. At the time a water connection is made to the town water system, all cross-connections, as defined in the Backflow Prevention and Cross-Connection Control Policy, shall be disconnected. Under no conditions will interconnected dual water supply systems be permitted. This requirement may be waived by the Director of Public Services Department if, in his or her opinion, a health condition does not require immediate connection.

(B) If, during the extension of the water and sewer system pursuant to means other than by public necessity or sufficient petition, water and/or sewer service becomes available to adjacent property served by these extensions, no assessment shall be levied. However, if service is later requested by an adjacent property owner, a fee in lieu of assessment shall become due. This fee shall be the current assessment rate in effect at the time of request for service if the property is located inside the city limits. This fee shall be in effect for all property along existing road frontage affected by this extension.

(C) In those areas annexed into the town, the owners of the properties abutting streets where water and/or wastewater are available shall at the time of annexation be required to connect onto water and wastewater lines within one year from the effective date of annexation. This requirement may be waived by the Director of Public Services Department if, in his or her opinion, a health condition does not require immediate connection.

(D) However, if the property abutting streets with water and wastewater has malfunction of a well or septic tank serving the property, then the owner will be required to initiate connection to both water and wastewater, as available, immediately after being notified in writing either by the town or the county's Health Department.

(E) In coordination with connection to town water and/or sewer utilities, any open dug well on the premises shall be disconnected and/or abandoned per state and county health requirements and, after a wastewater connection is made, any privy pit or septic tank after being cleaned shall be filled with clean compacted earth to the level of the ground surface.
(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.046 DISAPPROVAL OF APPLICATION.

(A) If, in the opinion of the Public Services Director, the water and/or wastewater connection applied for will be of such size or character as to put too great a demand on any part of the system and disrupt the town's ordinary service, he or she shall disapprove the application until such time as adequate means are provided to eliminate the unsatisfactory condition. If, at any time, changes are made by the owner and/or account holder in his or her service requirements so as to create an unsatisfactory condition in the town's water or wastewater service, the Public Services Director shall require the owner and/or account owner to adopt remedial measures to eliminate the unsatisfactory condition. If the waste proposed to be discharged into the town's sewerage system is, in the opinion of the Public Services Director, of such a nature or of such quantity as to overload the existing sewage collection or treatment facilities, he or she shall disapprove the application and require the applicant to adopt remedial measures to eliminate the unsatisfactory condition. An appeal from the ruling by the Public Services Director may be made to the Town Manager whose decision shall be final.

(B) The town shall in no way be responsible for any cost or inconvenience caused by a change in service requirements after an application has been approved or by an installation before the application has been approved.
(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.047 CONNECTIONS PROHIBITED.

(A) No person shall cause any storm water runoff or unapproved water discharge (via open gutter, rain water conductor, cesspool, privy vault or steam exhaust, or other steam apparatus) to be connected to any wastewater line without specific permission from the Public Services Director.

(B) The town will allow a drain from a dumpster pad to be tied to the sanitary sewer if the area is curbed and no water other than that which falls on the dumpster will be drained to the sewer.

(C) A one-time pad charge will be made based on a 400-square-foot area and 45 inches of rainfall annually.
(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.048 SEPARATE WATER AND WASTEWATER CONNECTIONS AND METERS.

(A) (1) Each building shall have a separate water meter and where practical shall have a separate water lateral.

(2) In the event that one lateral is approved to be used for two buildings, or used to serve two or more meters for the same building, an approved separate cut-off shall be provided for each meter.

(B) Where practical, each building shall have a separate wastewater connection or otherwise must be approved by the Director of Public Services.
(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.049 OWNERSHIP OF CONNECTIONS.

(A) All meters, boxes, pipes and other equipment furnished and installed by the town for water or wastewater connection shall remain the property of the town.

(B) If, after an installation is completed, the property owner requests that a meter or lateral be changed in size and this request is approved by the Public Services Director or his or her designee, the property owner shall pay for the change of lateral as though it were a new connection and shall pay or be refunded the difference of the cost of meters in the original and new installations according to the current price of the two meters.
(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.050 MAINTENANCE OF METERS AND CONNECTIONS.

All meters and water and wastewater connections at the public main installed by the town shall be maintained by the town at the town's expense with the exceptions below:

(A) Meters as otherwise outlined by this policy;

(B) The property owner will be responsible for maintaining the area around the meter in good repair per Public Services Department Standards. The meter box will be at ground level and not covered with dirt, debris and the like. The meter reader shall be able to read the meter without hindrance from brushes, trees, flowers, fences and the like; and

(C) If inadequate access is provided for reading and maintaining the meter, written notice will be given to the property owner to correct within 90 days. If not corrected within 90 days, an additional charge shall be applied per billing in addition to estimated charges. Furthermore, water and sewer may be terminated if not corrected.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.051 CONNECTION OF UNAPPROVED SUPPLY.

No part of the plumbing served by the town's water system shall be connected to any other source of water supply. If, upon any premises, both town water and water from any other source are used, the piping shall be completely separate. Pipes carrying water from a source other than the town's supply shall be painted a pre-approved color code or marking system and verified through the county's Inspections Department.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.052 BACKFLOW AND CROSS-CONNECTION PREVENTION.

All water lines connected to the water distribution system owned and operated by the town shall be subject to the requirements of the town's Backflow Prevention and Cross-Connection Control Policy. Upon notice from the town's Public Services Department, the customer will be required to have the backflow prevention device and cross-connection control device(s) tested by a certified tester. The customer will submit satisfactory test results to the town's Public Services Department within 30 days of notice. Failure to properly test could result in discontinuance of service. For further information, please consult the town's Backflow Prevention and Cross-Connection Control Policy.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.053 EXPANSION OF SYSTEM.

(A) It is the policy of the town to extend, or allow for extension, of town water and sewer service to developments to provide for the orderly growth of the town. Participation by the town will be at the option of the Town Council based on the total benefit to the town.

(B) The developer shall absorb the entire cost of water and sewer extensions to the development property. As required, the developer shall extend water and sewer utilities through the property or across the property roadway frontage in order to serve adjacent properties.

Reimbursement for oversize lines will be at the discretion of Town Council in the same manner as stated in § 52.055 of this chapter.

(C) Water and sewer extensions not specifically covered by existing policy will be as negotiated and contracted for between the town and the developer.

(D) The town will maintain a process for approval of the construction or alteration of the water distribution and/or the wastewater collection system. The process will incorporate all requirements of the Division of Water Quality and/or the Division of Environmental Health for certification of the program. All design must be based on town design requirements. Upon completion of the construction or alteration of the distribution or collection system, the applicant shall submit a statement to the local approval program signed by a licensed professional engineer stating that construction was completed in substantial accordance with the approved plans and specifications and revised only in accordance with NCDENR regulations.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.054 WATER AND WASTEWATER CONNECTIONS.

(A) Upon designing improvements to a street the town may stub out water and wastewater connections to each buildable lot.

(B) When a connection terminates at the curb line, the connection shall not be extended to the property line and the meter set until the owner of the property or his or her agent applies for such connection.

(C) When the connection terminates at the property line, the meter shall not be set and the wastewater or water connection shall not be used until the owner of the property or his or her agent applies for service.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.055 OVERSIZE PIPE REIMBURSEMENTS.

(A) (1) The developer of a new subdivision shall be responsible for the cost of the installation of water and sewer lines, and all appurtenances, as required by the town. The property owner or engineer is required to investigate serving adjoining properties with water and sewer service and report such findings to the Public Services Department. If it is determined by town staff that extension of utilities through the development is feasible, the developer will be required to extend the lines at his, her or their expense.

(2) Any participation by the town will be at the option of Town Council based on total benefit to the town.

(3) Any water or sewer main that passes through a new development can be used by the town to serve areas beyond the new development.

(4) If the town deems necessary, it may require the developer to install a line in excess of the standard line diameter required to serve the development.

(B) The difference in costs between the standard main required by the development and an oversized line shall be the responsibility of the town and is outlined below.

(1) *Water improvements.*

(a) If the developer, with his engineer, will design the water system to town standards, provide all necessary surveying, install all pipes, laterals and appurtenances, inspect the construction, and furnish final "as-built" plan and profile drawings in accordance with the town's design criteria and with the town's approval of plans, the town will:

1. Review the construction inspection for conformity to the approved plans and town requirements; and

2. Reimburse the developer for oversized water lines which are required to serve areas other than those within the development.

(b) The reimbursement for oversized sewer mains will be at the actual approved cost, or at the following rates, whichever is less:

1. For 12-inch diameter lines: $7 per lineal foot;

2. For 16-inch diameter lines: $14 per lineal foot; and

3. For pipe sized above 16 inches in diameter, the amount of reimbursement will be negotiated subject to final approval by the Town Manager.

(c) All quantities submitted for payment shall be verified by a professional engineer licensed by the state. In no case shall the reimbursement exceed the developer's actual contract cost.

(2) *Sewer improvements.*

(a) If the developer, with his or her engineer, will design the sewer system to town standards, provide all necessary surveying, install all pipes, laterals and appurtenances, inspect the construction and furnish final "as-built" plan and profile drawings in accordance with the town's design criteria and with the town's approval of plans, the town will:

1. Review the construction inspection for conformity to the approved plans and town requirements; and

2. Reimburse the developer for oversized sewer lines which are required to serve areas other than those within the development.

(b) The reimbursement for oversized sewer mains will be at the actual approved cost, or at the following rates, whichever is less:

1. For 12-inch diameter lines: $6 per lineal foot;

2. For 15-inch diameter lines: $12 per lineal foot;

3. For 18-inch diameter lines: $21 per lineal foot; and

4. For pipe sized above 18 inches in diameter, the amount of reimbursement will be negotiated subject to final approval by the town.

(c) For sewer main which the town requires to be bored or tunneled under a roadway, the reimbursement will be at the actual approved cost, or at the following rates, whichever is less:

1. For 12-inch diameter lines: $35 per lineal foot;

2. For 15-inch diameter lines: $50 per lineal foot;

3. For 18-inch diameter lines: $75 per lineal foot; and

4. For pipe sized above 18 inches in diameter, the amount of reimbursement will be negotiated subject to final approval by the Town Manager.

(d) All quantities submitted for payment shall be verified by a professional engineer licensed by the state. In no case shall the reimbursement exceed the developer's actual contract cost.

(3) *Reimbursement contract based on developer pricing.*

(a) Should the developer's contract unit prices be less than the rates stated above, a reimbursement contract will be prepared based on bid tabulations submitted by the developer (as prepared by his or her engineer). The contractor installing the improvements shall be approved by the town. The contract shall be approved by the Town Council prior to the developer beginning with any reimbursable work. Payment may be withheld for any improvement work subject to reimbursement that commenced prior to Town Council's decision.

(b) Copies of the construction contract and cost invoices shall be submitted to the town. The town shall be party to and approve contract and plan modifications.

(c) After installation, a state-licensed engineer shall submit a letter of certification stating that the improvements have been inspected and constructed to town standards and the costs submitted for reimbursement are true and accurate. In no case shall the reimbursement exceed the developer's actual contract cost.

(4) *Reimbursement contract for oversize pipe.*

(a) Should the pipe size not be represented in the above rate information and the Town Manager has approved the concept of oversizing the pipe for the benefit of the town, then a reimbursement contract will be prepared based on bid tabulations submitted by the developer (as prepared by his or her engineer) and the most recent applicable town contract unit price. The contractor installing the improvements shall be approved by the town. The contract shall be approved by the Town Council prior to the developer beginning with any reimbursable work. Payment may be withheld for any improvement work subject to reimbursement that commenced prior to Town Council's decision. In no case shall the reimbursement exceed the developer's actual contract cost.

(b) Copies of the construction contract and cost invoices shall be submitted to the town. The town shall be party to and approve contract and plan modifications.

(c) After installation, a state-licensed engineer shall submit a letter of certification stating that the improvements have been inspected and constructed to town standards and the costs submitted for reimbursement are true and accurate. In no case shall the reimbursement exceed the developer's actual contract cost.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

APPLICATIONS AND FEES

§ 52.070 APPLICATION FOR SERVICE.

(A) A service charge for all water accounts inside and outside the town shall be necessary for each new application for water service. Applications for water service shall be made in writing. Each applicant must provide proper identification and only members of the immediate family and/or relatives may be authorized to sign for the applicant. If the property owner has a property management company representing them, the town reserves the right to require documentation stating that the management company has been empowered by the property owner to apply for service and oversee the property. It is the property owner's responsibility to make sure the town is notified in writing if there is a change in the management company overseeing the property and service accounts. It is also the property owner's

responsibility to inform the town when the tenant vacates the property since the property owner is responsible for service charges while the property is vacant.

(B) If application is made for water service to premises on which delinquent water rents are or may be due, the application may be honored but the owner of the property will be advised in writing that delinquent water rents are due, or may be due on the premises, and that if these charges are not paid, they shall become a lien against property and shall be subject to advertising with possible foreclosure of property. If it is determined that any person has moved from a previous location leaving an unpaid water bill, then that person will be provided water service if all delinquent water bills and penalties charged to him or her, or his or her spouse, if they were living together are paid. If these delinquent water bills are not paid at the time application is made or if 30 days have elapsed since previous service has been terminated, the current account without further notice, will be discontinued and delinquent fees added as per this chapter or established rates. Two final bills will be sent to the new address. The customer, prior to the due date of the final notice, has a right to appeal the bill to the Town Manager. The Town Manager's decision regarding the appeal will be final.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.071 DEPOSIT REQUIRED.

(A) When any tenant of any premises makes application for water to be furnished to such premises, he or she may be required to make a deposit as hereinafter set out to guarantee payment of the final water bill due upon termination of the water service. The deposit shall not be applied to a delinquent water bill, unless the delinquent water account is determined to be the final bill and service is terminated. When such tenant has the water finally cut off, he or she shall upon payment of all water bills due, be entitled to the return of his or her deposit, or any balance thereof. Any deposit remaining after the final bill paid may be transferred to new account. The amount of such required deposit shall be set in a separate fee schedule which is adopted by the Town Council.

(B) The making of the deposit required by this chapter shall not relieve any premises of liability for the payment of any water bill incurred by any tenant. Every landlord renting or leasing premises to tenants required by this chapter to make deposit, shall immediately notify the town upon the occupation or vacation of the rented or leased premises by the tenant. The owner or landlord shall sign agreement and/or application stating he is responsible for charges when property is vacant.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.072 SEWER SERVICE CHARGES.

The owner of any property receiving sewer service and not using town water, except as hereinafter provided, shall have the option of installing and maintaining without cost to the town a meter or meters to measure the quantity of water received from any source other than the town's water supply system, but discharged into the town's sewers. Such meter or meters shall be installed only under the supervision and in accordance with the plans and specifications of the town or they will be charged an annual wastewater charge as approved by the Town Council.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.073 WATER NOT DISCHARGED TO WASTEWATER SYSTEM.

Any account holder who uses water from the town's water system for an industrial or commercial purpose so that the water used is not discharged into the wastewater system of the town shall not be charged for sewer service on said quantity; provided that the water used for such industrial or commercial purposes and not discharged into the town's wastewater system shall be accurately measured at the expense of the account holder. Any account holder using water from the town's water system for purposes other than commercial or industrial, so that the water used is not discharged into the wastewater system of the town, may install and maintain without cost to the town a meter or meters to measure the quantity of water used, but not discharged into the town's wastewater system. Such meter or meters shall be installed under the supervision and in accordance with the plans and specifications of the town. He or she shall not be charged for wastewater service on quantity.
(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.074 DISCONTINUANCE OF SERVICE.

(A) (1) It is the policy of the town to discontinue utility service to customers by reason of non-payment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The town's form for application for utility service and all bills shall contain, in addition to the title, address and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(a) All bills are due and payable on or before the date set forth on the bill; and

(b) If any bill is not paid by or before the date specified above, then a second notice will be provided to the customer by either door hanger at the service location or by telephone call (automated) if the customer has provided the town with a correct telephone number as required on the utility service application form. The message will notify the customer that if the bill is not paid within ten days of the bill due date, service will be discontinued for nonpayment. Non-payment fees will be imposed during work hours (Monday through Friday, 8:30 a.m. to 5:00 p.m.), and additional non-payment fees will be imposed after business hours.

(2) Customers disputing the correctness of their bill shall have a right to contact the Finance Director and may present their concerns of the utility billing charge. The Finance Director is authorized to order the customer's service not be discontinued and shall have authority to make a final determination of the customer's concern. In the absence of payment of the bill rendered, service will be discontinued at the time specified.

(B) When it becomes necessary for the town to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with nonpayment fees as set forth in the town's Fee Schedule.

(C) If an account holder pays a service bill with a check that is returned unpaid for any reason, the account holder shall be informed of this occurrence and shall be given written notice mailed to the address given on the service application that a fee shall be added to the

account for processing the returned check. The account holder then must pay the bill and returned check fee in cash or by other approved methods of payment. After an account holder has three checks returned, the account holder will be put on a cash-only basis. If the service bill and accumulated fees are not paid within seven days of the date on the written notice, then water service may be cut off.

(D) Upon death of the account holder (or one account holder, if more than one), the account may be transferred to the survivors with proof of identity and proper documentation as required.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.075 METERS, DEVICES AND TESTING.

(A) All meters or other measuring devices installed or required to be used shall be under the supervision and control of the town and shall be installed and maintained at cost to the owner of the property. Meters or other devices installed for the purpose of determining the quantity of water not discharged into the town's sewers shall be kept in repair, whether caused by ordinary wear and tear or other cause, and bills for repairs made by the town shall be added to and become a part of the wastewater bill. Any account holder may have a water meter test made by advance payment of the fee schedule based on meter size.

(B) If the consumption shown on the meter in question is greater than twice the average consumption for the preceding six months, and the reason for such an increase cannot be determined, the fee for testing the meter shall be waived. Since the most accurate water meters suitable for general use require a margin of approximately 2.5% for error, any meter which shows upon testing an error of not greater than 2.5%, it shall not be considered defective. If the meter is found to be over-registering in excess of 2.5%, refund shall be made for those billing periods up to one year in an amount equal to the total over-registration, and the fee paid for the test shall be refunded.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.076 ADJUSTMENT OF OVERCHARGES.

The Finance Officer, or his or her designee, shall have the authority to adjust any water bill, provided the charge is excessive and the cause of the excessive bill has been corrected, based upon the following conditions.

(A) If the cause is a defect in a plumbing fixture and the water is returned to the wastewater system, the adjustment shall be calculated by determining an average water bill for the preceding year and writing off one-half of the water and wastewater bill above an average bill.

(B) If the cause is a burst pipe or an underground leak and the wastewater is not returned to the sanitary sewer system, the adjustment shall be calculated by determining an average water bill for the preceding year, and writing off all the wastewater bill and one-half the water bill above an average bill. Reasonable precautions must have been taken to ensure that further leaks and damage of pipes will not occur.

(C) If the cause is of an undetermined origin, and it does not appear upon investigation that the occupants of the premises served were in any way at fault for the excessive water bill, the adjusted bill shall be calculated the same as in division (A) above.

(D) (1) Any excessive residential bill which exceeds its average monthly or quarterly billing by more than $200 due to undetermined cause may be rebated in an amount of up to 90% of the amount exceeding the average billing. ***UNDETERMINED CAUSE*** means a cause which is not attributable to leaks such as burst pipes, underground leaks, and defective plumbing leaks, or known negligent or deliberate use of water. In regard to leaks, it shall be incumbent upon the customer to have the plumbing properly checked and to provide written evidence that there are no leaks on the property side of the meter.

(2) Furthermore, documentation should be provided indicating professional services were sought to ascertain the undetermined cause of the leak.

(E) No adjustment shall be made for a period in excess of two billing periods, and not more than one adjustment for an excessive water bill caused by the same condition shall be made within a period of one year, per customer.

(F) The town reserves the right to demand proof that plumbing repairs have been made before an adjustment is granted.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

MISCELLANEOUS SALES OF WATER AND MATERIALS

§ 52.090 SPECIAL EVENTS.

(A) It is the preference of the town to sell water using a permanent service connection where practical. In extenuating circumstances where it is not practical to use an existing or proposed permanent service connection and upon approval, water from a hydrant will be furnished for special events that are temporary in nature. These activities include street fairs or carnivals, markets, parade, circus, road show or other similar event.

(B) (1) The temporary user will be billed at the rate in effect for the meter size used.

(2) The user may also be subject to sewer charges based on current rates.

(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.091 HYDRANT USE.

(A) It is the policy of the town that the opening or closing, damaging, tampering, connection to or withdrawal of water from any publicly owned or privately owned fire hydrant connected to the town's water system is expressly prohibited, except in compliance with the terms of the Hydrant Use Policy.

(B) Portable meters and backflow prevention devices for connection to fire hydrants may be furnished by the town after an application and a deposit has been filed with the Public

Services Department. The deposit amount will be double for service provided to companies located outside the county. The applicant shall be responsible for any damage to the hydrant, meter connections or equipment approved used in the installation and drawing water from either a public or private water system. The cost of any such damage shall be taken from the deposit. A service charge of $20 per month, or any part of the month, shall be made for a meter on a hydrant in addition to the cost of the water used through the meter. After deducting the water rent, service charge, and any cost of damage to the installation, the town shall refund the balance of the deposit to the applicant as soon as the meter is removed and returned to the town.
(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

PROTECTION AND GUARANTY

§ 52.105 PROTECTION OF SYSTEM.

(A) No person shall contaminate any portion of the town's water supply whether the same is a reservoir, tank, pipe or treatment facility. Inspectors, meter readers or authorized employees of the town, whose duty it may be to enter upon private premises to examine meters, pipes or other fixtures used in connection with the town's water and sewer service shall have free access at all reasonable hours to all parts of such premises for the purpose of inspection, meter reading, examination of fixtures and observation of the manner in which water is used. In case any inspector is refused admittance to any premises for any such purpose or is hindered or prevented from making such examination the water shall be turned off and shall not be turned on again until free access is given.

(B) Only a duly-authorized employee of the town shall turn the stopcock installed in each meter box, nor shall any person construct or have constructed any bypass around any meter, except as may be installed and sealed by the town. The fact that water is cut on to any premises by an occupant thereof without the knowledge of either the town or the owner shall not relieve such premises of liability for such unauthorized use of water. Restaurants and food preparation businesses which discharge grease and food waste will be required to install an approved grease trap if one does not currently exist. Any individual or business which discharges any liquid or solids which will cause problems with the sewage collection system or the treatment of wastewater are deemed to be in violation of the code and will be subject to immediate discontinuance of service until the problem causing the discharge can be corrected to the satisfaction of the town. Additional information may be obtained through the town's Public Services Department.

(C) If a user's service is found to be defective and taking on inflow or if an illegal connection is discovered, then the town will require the user to repair service to acceptable condition. Users will be notified in writing and given 30 days to make necessary repairs. All new plumbing constructed must provide a ground path back to the town water distribution system. This can be established by the use of a metallic service line, or where PVC service lines are used, an insulated grounding wire attached to the copper plumbing of the dwelling and connecting to the water meter setter. Construction shall be per town specifications.
(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

§ 52.106 GUARANTEE OF QUANTITY, QUALITY AND PRESSURE.

The town operates its water and sewer systems based in accordance with the federal and state regulations. The town does not guarantee the quality, quantity or pressure of its water supply. It is hereby made a portion of the terms on which the town furnished water to account holders that the town shall in no case be liable to any account holder for any defect in quality, quantity or pressure. The town shall not be liable to any account holder for damages resulting from the complete or partial cutting off of water; and no deduction shall be made from any water bill by reason of any such defect or deficiency. In every case where practicable ample notice, by the best means available shall be given when the water is to be cut off from any portion of the town. No town employee shall take responsibility for telling a property owner or occupant how best to care for his or her boiler, heater or other equipment which is affected by the discontinuance, either temporary or permanent. The owner or occupant shall be entirely responsible for his or her equipment and shall hold the town in no way responsible for damage thereof.
(Ord. 2007-2-2, passed 2-20-2007; Ord. passed 9-18-2012)

CHAPTER 53: SEWER USE

Section

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GENERAL PROVISIONS

§ 53.001 PURPOSE.

(A) To promote the general welfare, prevent disease and promote health; to provide for the public safety and comfort of the people; and to protect the environment, this chapter is hereby enacted.

(B) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection system for the town.

(Ord. 2007-11-1, passed 11-20-2007)

§ 53.002 OBJECTIVES.

(A) This chapter sets forth requirements for all contributors to the wastewater collection and treatment system for the town and enables the town to comply with all applicable state and federal laws required by the Clean Water Act of 1977, being 33 U.S.C. §§ 1251 et seq., and general pretreatment regulations (40 C.F.R. part 403) and with agreements entered into with the City of High Point.

(B) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the wastewater collection system which may damage or interfere with the operation of the system;

(2) To prevent the introduction of pollutants into the receiving wastewater system which may interfere with treatment and pollution control processes;

(3) To prevent the introduction of pollutants into the wastewater system which will pass through the system inadequately treated into watercourses, or the atmosphere, or otherwise be incompatible with the systems;

(4) To prevent the introduction of pollutants into the wastewater system which will interfere with sludge and solids management options;

(5) To improve the opportunity to recycle and reclaim wastewaters and sludge from the system;

(6) To prevent the introduction of pollutants into the wastewater systems which will create a hazard to town employees or the public, adversely affect public health and welfare or adversely impact the environment;

(7) To ensure that the town complies with its non-discharge permit conditions and any other federal or state laws to which the town wastewater system is subject; and

(8) To enable the town to comply with its contractual obligations to the City of High Point and the intermunicipal agreement between the town and the City of High Point.

(C) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(D) This chapter shall apply to all users of the municipal wastewater system, as authorized by G.S. § 160A-312. This includes users connected to collection systems owned by other municipalities where those collection systems discharge to the town's collection system.
(Ord. 2007-11-1, passed 11-20-2007)

§ 53.003 ADMINISTRATION.

Except as otherwise provided herein, the town's Director of Public Service is assigned the responsibility of administering all provisions of this chapter and shall exercise these responsibilities in accordance with the purpose and intent of this chapter in a fair and objective manner.
(Ord. 2007-11-1, passed 11-20-2007)

§ 53.004 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or ***THE ACT.*** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq.

APPROVAL AUTHORITY. The Director of the Division of Water Quality of the state's Department of Environment and Natural Resources or his or her designee.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER.

(a) If the industrial user is a corporation, ***AUTHORIZED REPRESENTATIVE*** shall mean:

1. The president, secretary or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

2. The manager of one or more manufacturing, production or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the industrial user is a partnership, association or sole proprietorship, an ***AUTHORIZED REPRESENTATIVE*** shall mean a general partner or the proprietor.

(c) If the industrial user is federal, state or local governments, or an agent thereof, an ***AUTHORIZED REPRESENTATIVE*** shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in divisions (a), (b) and (c) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the authorization is submitted to the city.

(e) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the City of High Point prior to or together with any reports to be signed by an authorized representative.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20°C usually expressed as a concentration (e.g., mg/l).

BUILDING SEWER. A sewer conveying wastewater from the premises of a user to the POTW.

BYPASS. The intentional diversion of wastestreams from any portion of a user's treatment facility.

CATEGORICAL STANDARDS. National categorical pretreatment standards or pretreatment standard.

CITY. The City of High Point, North Carolina, or any duly-authorized agent or official acting on behalf of the city.

DIRECTOR. The person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his or her duly-authorized representative.

DOMESTIC SEWAGE. The liquid waste from residence building drains, public rest rooms in commercial or industrial establishments, and garbage grinders, dishwashers and clothes washers which are not operated on a commercial basis.

ENFORCEMENT RESPONSE PLAN (ERP). The set of enforcement actions to be taken by the city in response to violations of any part(s) of this chapter.

ENVIRONMENTAL PROTECTION AGENCY (EPA). The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly-authorized official of said agency.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and for a period of time not to exceed 15 minutes.

HOLDING TANK WASTE. Any waste from holding tanks, including, but not limited to, such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

INDIRECT DISCHARGE. The discharge or the introduction of non-domestic pollutants from any source regulated under § 307(b) or (c) of the Act, (33 U.S.C. § 1317), into the POTW (including holding tank waste discharged into the system).

INDUSTRIAL USER. Any person which is a source of indirect discharge.

INTERFERENCE. The inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act, (33 U.S.C. § 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. §§ 6901 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Marine Protection Research and Sanctuary Act (MPRSA) (16 U.S.C. §§ 1431 et seq.) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA, being the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), applicable to the method of disposal or use employed by the POTW).

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

MONITORING FACILITY. A structure or sampling installation for the purpose of accurately measuring the volume of flow and sampling of the wastes, the design, location and operation of which must be approved by the Director.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or ***CATEGORICAL STANDARD.*** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 C.F.R. Ch. 1, Subch. N, parts 405 through 471.

NATIONAL PROHIBITIVE DISCHARGE STANDARD or ***PROHIBITIVE DISCHARGE STANDARD.*** Absolute prohibitions against the discharge or certain substances; these prohibitions appear in § 53.036 of this chapter and developed under the authority of § 307(b) of the Act, being 33 U.S.C. § 1317, and 40 C.F.R. § 403.5.

NEW SOURCE.

(a) Any building, structure, facility or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under § 307(c) of the Act, being 33 U.S.C. § 1317, which will be applicable to such source if such standards are thereafter promulgated in accordance with § 307(c); provided that:

1. The building, structure, facility or installation is constructed at a site at which no other source is located;

2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

3. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of divisions (a)2. or (a)3. above, but otherwise alters, replaces or adds to existing process or production equipment.

(c) For purposes of this definition, construction of a ***NEW SOURCE*** has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program:

a. Any placement, assembly or installation of facilities or equipment; or

b. Significant site prepara- tion work including clearing, excavation or removal or existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment.

2. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

NON-CONTACT COOLING WATER. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM or ***NPDES PERMIT.*** A permit issued pursuant to § 402 of the Act (33 U.S.C. § 1342), or pursuant to G.S. § 143-215.1 by the state under delegation from EPA.

NON-DISCHARGE PERMIT. A disposal system permit issued by the state pursuant to G.S. § 143-215.1.

PASS THROUGH. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation of the POTW's NPDES or non-discharge permit or downstream water quality standard.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, their legal representatives, agents or assigns. This definition includes all federal, state and local government entities.

pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

POLLUTANT. Any "waste" as defined in G.S. § 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded

equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

POTW DIRECTOR. The City of High Point Director of Public Services.

PRETREATMENT or ***TREATMENT.*** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

PRETREATMENT PROGRAM. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the city in compliance with 40 C.F.R. §§ 403.8 and 403.11 and as authorized by G.S. § 143-215.3(a)(14) in accordance with 40 C.F.R. § 403.11.

PRETREATMENT STANDARDS AND REQUIREMENTS. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

PRETREATMENT STANDARDS. Prohibited discharge standards, categorical standards and local limits.

PUBLICLY-OWNED TREATMENT WORKS (POTW) or ***MUNICIPAL WASTEWATER SYSTEM.***

(a) A treatment works as defined by § 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to the POTW treatment plant.

(b) For the purposes of this chapter, ***POTW*** shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, or in any other way, users of the city's POTW.

SANITARY SEWER SYSTEM. The pipes, structures and equipment for transporting domestic waste and/or industrial wastes to the POTW and to which storm, surface, ground waters and unpolluted waters are not intentionally admitted.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantia] and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. ***SEVERE PROPERTY DAMAGE*** does not mean economic loss caused by delays in production.

SIGNIFICANT INDUSTRIAL USER. Any industrial user of the wastewater disposal system who:

(a) Has an average daily process wastewater flow of 25,000 gallons or more;

(b) Contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge;

(c) Is required to meet a national categorical pretreatment standard; or

(d) Is found by the city, the Division of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the

quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements (Reference: 15A NCAC (2H).0903).

SIGNIFICANT NON-COMPLIANCE or ***REPORTABLE NON-COMPLIANCE.*** A status of non-compliance defined as follows:

(a) Violations of wastewater discharge limits:

1. Chronic violations: 66% or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period;

2. Technical review criteria (TRC) violations: 33% or more of the measurements are equal to or greater than the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs: For conventional pollutants:

a. BOD, TSS, fats, oil and grease, TRC = 1.4; and

b. For all other pollutants: TRC = 1.2.

3. Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass through; or endangered the health of the sewage treatment plant personnel or the public.

4. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(b) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction and attaining final compliance by 90 days or more after the schedule date.

(c) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports and periodic compliance reports within 30 days from the due date.

(d) Failure to accurately report non- compliance.

(e) Any other violation or group of violations that the control authority considers to be significant.

SLUG LOAD OR DISCHARGE. Any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass-through, or in any other way violates the POTW's regulations, local limits or industrial user permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in § 53.036 of this chapter.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

STANDARD MANHOLE. A sewer inspection entrance constructed according to city standards and having a minimum horizontal diameter of four feet and located on the building sewer downstream from any pretreatment works.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUSPENDED SOLIDS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

TOWN. The Town of Jamestown.

UPSET. An exceptional incident in which there is unintentional and temporary non-compliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An ***UPSET*** does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.

USER. Any person who discharges or causes or permits the discharge of wastewater into the town's sanitary sewer system.

WASTEWATER. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any ground water, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

WASTEWATER PERMIT. As set forth in § 53.050 of this chapter and incorporated by reference into this chapter.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

(B) This chapter is gender neutral and the masculine gender shall include the feminine and vice versa. "Shall" is mandatory; "may" is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(C) The following abbreviations shall have the designated meanings.

BOD. Biochemical oxygen demand.

C.F.R. Code of Federal Regulations.

COD. Chemical oxygen demand.

EPA. Environmental Protection Agency.

gpd. Gallons per day.

G.S. North Carolina General Statutes.

mg/l. Milligrams per liter.

NCDWQ. North Carolina Division of Water Quality.

(Ord. 2007-11-1, passed 11-20-2007)

§ 53.005 APPLICABILITY OF SEWER USE PROVISIONS.

All public sanitary sewer users shall comply with all applicable provisions of this chapter and shall further comply with all applicable federal, state and local laws, ordinances and regulations, including EPA and the state's Division of Water Quality pretreatment standards, which are at that time in effect. In the event of a conflict, the more stringent requirement or higher standard shall apply. Violations of this document shall be subject to penalties as provided throughout this chapter.

(Ord. 2007-11-1, passed 11-20-2007)

§ 53.006 SPECIAL AGREEMENTS.

No statement contained in this chapter shall be construed as preventing special agreement or special arrangement between the town and any customer or potential customer whereby an industrial waste of strength or character in excess of that defined as standard strength may be accepted by the town, subject to payment by the customer pursuant to the industrial waste surcharges provisions of this chapter and other fees as may be adopted by the town. However, no special agreement may be established, except by authority of the town and the POTW Director; and in no event shall any such agreement be entered into that would be in direct violation of any EPA/NC DWQ pretreatment standard.
(Ord. 2007-11-1, passed 11-20-2007)

SEWER USE REQUIREMENTS

§ 53.020 GENERAL SEWER USE REQUIREMENTS.

(A) Any new connection(s) to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to, capacity for flow and pumping capacity, as determined by the town.

(B) No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining written approval from the town.

(C) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the town, or in any area under jurisdiction, any human or animal excrement, garbage or objectionable waste.

(D) Users of the sanitary sewer system shall keep their building sewer and fixtures connected therewith, maintained in good repair and protected from extraneous infiltration/inflow at their own expense.

(E) No waste, wastewater or any other substance shall be discharged directly into a manhole, clean-out pipe or other opening in a sanitary sewer other than through an approved building sewer without prior designation by the town as an approved point of discharge.

(F) No person shall obstruct, break, remove or otherwise injure any portion of any manhole, pump station or other part of any sanitary sewer, nor discharge any substance therein that is likely to cause such injury.

(G) No person(s) shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or ground water to the sanitary sewer or to a building sewer or building drain which is in turn connected directly or indirectly to the sanitary sewer.

(H) No person shall discharge into the sewer system, or cause to be discharged into the sewer system, the sludge resulting from pretreatment of waters or wastewaters.

(I) No person shall increase the use of process water or in any other way attempt to dilute a discharge as partial treatment to achieve compliance with the limitations contained in the federal pretreatment standards or the requirements in any other pollutant- specific limitation.

(J) If a building sewer connected to the sanitary sewer becomes clogged, broken, out-of-order or detrimental to the use of the public sewer, the owner having charge of any

building or premises through which the building collects wastewater shall, upon notification by the town, reconstruct, alter, clean or repair the building sewer or collecting sewer as the condition may require with ten workings after receiving notification.

(K) No person shall discharge to any natural outlet, including storm sewers, within the town any wastewater or other polluted waters or solids, except where suitable treatment has been provided in accordance with requirements of EPA/NCDWQ.

(L) Grease, oil and sand interceptor sewers shall be provided when, in the opinion of the town, they are necessary for the proper handling of liquid wastes containing floatable oil, sand or other harmful ingredients; except that, such interceptors shall not be required for private living quarters or dwelling units.

(Ord. 2007-11-1, passed 11-20-2007) Penalty, see § 53.999

PROHIBITED DISCHARGES

§ 53.035 GENERAL PROHIBITIONS.

(A) No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through.

(B) These general prohibitions apply to ail users of a POTW whether or not the user is a significant industrial user or subject to any national, state or local pretreatment standards or requirements.

(Ord. 2007-11-1, passed 11-20-2007) Penalty, see § 53.999

§ 53.036 SPECIFIC PROHIBITIONS.

(A) No user shall contribute or cause to be contributed into the POTW the following pollutants, substances or wastewater:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Included in this prohibition are wastestreams with a closed cup flashpoint of less than 140°F (60°C), using the test methods specified in 40 C.F.R. § 261.21. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5%, nor any single reading over 10%, of the lower explosive limit (LEL) of the meter;

(2) Solid or viscous substances in amounts which will cause interference with the flow in a sewer, but in no case solids greater than one-half inch in any dimension;

(3) Any wastes or water containing mineral or hydrocarbon, vegetable or animal fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l, or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F. Animal and vegetable fats above these units may be allowed following written application and approval by the Director;

(4) Any wastewater having a pH less than 5.0, or more than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW;

(5) Any wastewater containing pollutants, including oxygen demanding pollutants, (BOD and the like) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to pass through or interfere with the POTW wastewater treatment system, any wastewater treatment or sludge process or constitute a hazard to humans or animals;

(6) Any noxious or malodorous liquids, gases or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;

(7) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal regulations or permits issued under § 405 of the Act (33 U.S.C. § 1345), the Solid Waste Disposal Act (42 U.S.C. §§ 6901 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.) or state criteria applicable to the sludge management method being used;

(8) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetables tanning solutions, which consequently imparts color to the treatment plants effluent thereby violating the POTW's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than 10% from the seasonably established norm for aquatic life;

(9) Any wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with the temperature at the introduction into the POTW to exceed 104°F (40°C);

(10) Any wastewater containing any radioactive wastes or isotopes, except as specifically approved by the POTW Director in compliance with applicable state or federal regulations;

(11) Any pollutants which result in the presence of toxic gases, vapors or fumes within the system in a quantity that may cause worker health and safety problems;

(12) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with § 53.065 of this chapter;

(13) Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized water, cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director;

(14) Any industrial wastes containing floatable fats, waxes, grease or oils, or which become floatable at the wastewater temperature at the introduction to the treatment plant during the winter season, but in no case, industrial wastewater containing more than 100 mg/l of emulsified oil or grease;

(15) Petroleum oil, non-biodegradable cutting oils, commonly called soluble oils, which form a persistent water emulsion and non-biodegradable complex carbon compounds in amounts that will cause interference or pass through;

(16) Any sludges, screenings or other residues from the pretreatment of industrial wastes;

(17) Any medical wastes, except as specifically authorized by the POTW Director in an industrial wastewater discharge permit;

(18) Any material containing ammonia, ammonium salts or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system;

(19) Any material identified as hazardous waste according to 40 C.F.R. part 261, except as may be specifically authorized by the POTW Director;

(20) Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B.0200;

(21) Recognizable portions of the human or animal anatomy; and/or

(22) Any wastes containing detergents, surface active agents or other substances which may cause excessive foaming in the municipal wastewater system.

(B) (1) Wastes prohibited by this section shall not be processed or stored in such a manner that these wastes could be discharged to the municipal wastewater system.

(2) All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connection with the system.

(Ord. 2007-11-1, passed 11-20-2007) Penalty, see § 53.999

SEWER USE REGULATIONS

§ 53.050 INDUSTRIAL/COMMERCIAL PRETREATMENT PROGRAM.

(A) The City of High Point owns and operates the POTW to which the town contributes wastewater which includes industrial waste. The city must implement and enforce a pretreatment program to control discharges from all industrial users pursuant to requirements set out in 40 C.F.R. part 403 and 15A NCAC 2H0.0900.

(B) Pursuant to the wastewater treatment facility contract between the town and the City of High Point, the following portions of the City of High Point's sewer use ordinance, as it may be amended from time to time, are incorporated by reference and made a part hereof as if appearing in total: §§ 8-2-54(d) through 8-2-64. The legal authority to administer, implement and enforce the industrial pretreatment program per the above referenced sections is conveyed to the City of High Point.

(Ord. 2007-11-1, passed 11-20-2007)

§ 53.051 PRELIMINARY TREATMENT DEVICES.

Where preliminary treatment, pretreatment, flow-equalizing facilities or grease, oil, grit and sand traps or other interceptors are provided for any wastewater, they shall be continuously maintained in satisfactory condition and effective operation by the owner at his or her expense.

(A) *Grease removal.*

(1) Grease and oil traps or other interceptors shall be provided at the user's expense when such user operates a food service establishment preparing, processing or serving food and/or food products. Grease interceptors may also be required in other industrial or commercial establishments when they are necessary for the proper handling of liquid wastes containing oil and/or grease in amounts in excess of 100 mg/l, or for any flammable wastes; except that, such interceptors or traps will not be required for private living quarters or dwelling units.

(2) The installation, operation and maintenance of such interceptors or traps will be subject to the provisions of the town's residual fats, oil and grease policy. The operation, maintenance and repair of such equipment shall be at the sole expense of the owner. Failure to comply may result in the implementation of enforcement procedures.

(B) *Sand and grit removal.*

(1) Sand and grit traps or other interceptors shall be required at the owner's expense when they are necessary for the proper handling and control of liquid wastes containing sand and grit in excessive amounts.

(2) All such interceptors shall be of a type and capacity approved by the town and shall be readily and easily accessible for cleaning and inspection. All such interceptors shall be serviced and emptied of their solids contents as required, but not less than every 30 days, is order to maintain their minimum design capability to intercept grit and sand prior to the discharge of waste water to the public sewer system. The operation, maintenance and repair of such equipment shall be at the sole expense of the owner.

(3) Failure to comply may result in the implementation of enforcement procedures.

(Ord. 2007-11-1, passed 11-20-2007) Penalty, see § 53.999

§ 53.052 DAMAGE AND TAMPERING.

No person shall:

(A) Break, damage, destroy, uncover, deface of tamper with any equipment or materials belonging to the town or to the city used or intended to be used for the purposes of making measurement, tests or examination of sewage or wastes;

(B) Remove, damage or interfere with the functioning of any pipe, main, manhole, manhole cover, building, apparatus or equipment used in the collection, conveyance or treatment of sewage or industrial wastes; or

(C) Place or cause to be placed in any manhole or sewer pipe or main any material which results, or is likely to result, in the stopping or obstructing of the normal flow of sewage or wastes.

(Ord. 2007-11-1, passed 11-20-2007) Penalty, see § 53.999

SEPTIC TANKS

§ 53.065 SEPTIC TANK WASTE.

No person shall discharge into the sanitary sewer system any waste from any septic tank or other private sewage disposal device.
(Ord. 2007-11-1, passed 11-20-2007) Penalty, see § 53.999

§ 53.066 SEPTIC TANKS IN LIEU OF SEWER CONNECTIONS.

(A) Septic tanks will be permitted, upon the approval of the county's Health Department and the town, when town sewer is not accessible within 300 feet of a property, or it is not practical to install a gravity sewer service line.

(B) If, at any time, the county's Health Department shall certify that such septic tank facilities create a hazard to the health and welfare of any of the citizens of the town, the owner of such property shall, within a period of 120 days after notice from the town, discontinue the use of such septic tank facilities and shall connect the building sewer to the sanitary sewer system of the town.
(Ord. 2007-11-1, passed 11-20-2007) Penalty, see § 53.999

LIABILITY, FEES AND INSPECTION

§ 53.080 DISCLAIMER OF LIABILITY.

(A) Neither the town, nor the city, shall be liable to any person for the failure to furnish sewer service for any purpose or under any conditions, or for the quantity or quality of the service furnished, or for any damage from discontinuance of service.

(B) All connections and service are subject to these provisions.
(Ord. 2007-11-1, passed 11-20-2007)

§ 53.081 FEE SCHEDULE.

(A) A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the municipal collection system.

(B) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.

(C) Each user shall pay its proportionate cost based on volume of flow.

(D) The town shall review annually the sewage contribution of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations for adjustments in the schedule of charges and fees as necessary.

(E) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW.
(Ord. 2007-11-1, passed 11-20-2007)

§ 53.082 AUTHORITY TO INSPECT.

Any duly-authorized employee of the town or the city, bearing proper credential and identification, shall be permitted to enter upon all properties, at reasonable times, for the purpose of inspection, observation, measurement, sampling and testing in accordance with provisions of this chapter.
(Ord. 2007-11-1, passed 11-20-2007)

§ 53.999 PENALTY.

(A) Any person found to be violating any part of this chapter, except as otherwise provided herein, shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(B) Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss or damage occasioned by the town by reason of such violation.
(Ord. 2007-11-1, passed 11-20-2007)

CHAPTER 54: WATERSHED PROTECTION

Section

54.01 Adopted by reference

§ 54.01 ADOPTED BY REFERENCE.

The town's watershed protection provisions, and any and all amendments, are hereby adopted by reference and incorporated herein as if set out in full.
(Ord. passed 6-19-2007)

TITLE VII: TRAFFIC CODE

Chapter
70. GENERAL PROVISIONS
71. TRAFFIC REGULATIONS
72. PARKING AND ENFORCEMENT
73. TRAFFIC SCHEDULES
74. PARKING SCHEDULES

CHAPTER 70: GENERAL PROVISIONS

Section
70.01 Town Manager authorized to place traffic-control devices

70.99 Penalty

§ 70.01 TOWN MANAGER AUTHORIZED TO PLACE TRAFFIC-CONTROL DEVICES.

The Town Manager is hereby authorized, in his or her discretion, to place traffic-control devices within the corporate limits of the town other than those dictated and controlled by the state. The Town Manager is also hereby authorized to determine and designate those traveled streets upon which shall be prohibited the use of roadway by heavy trucks and trailers. The heavy trucks and trailers to which this section applies are tractor and tandem, tractor-type trucks when pulling semi-trailers or tandem semi-trailers.
(Ord. 1994-8-1, passed 8-16-1994) Penalty, see § 70.99

§ 70.99 PENALTY.

(A) Any person violating any provision of this traffic code for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.
(B) Any violation of § 70.01 of this chapter shall result in a fine of $100 or by imprisonment not exceeding 30 days, or both, as required by the law enforcement agency of the town.
(Ord. 1994-8-1, passed 8-16-1994)

CHAPTER 71: TRAFFIC REGULATIONS

Section

71.01 Obedience
71.02 Avoidance
71.03 Prohibited use of curbs and medians
71.04 Obstructing vehicular or pedestrian traffic
71.05 No left turn
71.06 No right turn
71.07 No right turn on red
71.08 No turn intersection
71.09 Riding on part of vehicle not intended for passengers
71.10 Truck routes
71.11 Sounding of unreasonable noise
71.12 Mini-bike, motor bike, ATV and the like
71.13 Tampering
71.14 Street and sidewalk obstructions
71.15 Speed limits

71.99 Penalty

§ 71.01 OBEDIENCE.

(A) Subject to the exemptions granted the driver of an authorized emergency vehicle, the driver of every vehicle must obey the instructions of any official traffic-control device when placed in accordance with this chapter.

(B) A law enforcement officer may direct all vehicles, including authorized emergency vehicles, without regard to such devices when necessary for the public safety or the regulation of traffic.

(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.02 AVOIDANCE.

It shall be unlawful to drive across a sidewalk or through other property for the purpose of avoiding an official traffic-control device.

(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.03 PROHIBITED USE OF CURBS AND MEDIANS.

It shall be unlawful for any person to park or drive a vehicle over, upon or across any curb, central dividing section, unpaved area dividing lanes of travel or any median along or

adjacent to a public street, except at such driveways, alleyways or other entrance and exists as are established by public authority.
(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.04 OBSTRUCTING VEHICULAR OR PEDESTRIAN TRAFFIC.

It shall be prohibited to operate or park a vehicle in such manner as to constitute an obstruction to vehicular or pedestrian traffic.
(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.05 NO LEFT TURN.

When official traffic-control devices are in place prohibiting left turns, it shall be unlawful to make a left turn from the streets designated.
(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.06 NO RIGHT TURN.

When official traffic-control devices are in place prohibiting right turns, it shall be unlawful to make a right turn from the street designated.
(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.07 NO RIGHT TURN ON RED.

When official traffic-control devices are in place prohibiting right turn on red traffic signal, it shall be unlawful to make a right turn from the street approaches designated.
(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.08 NO TURN INTERSECTION.

When official traffic-control devices are in place prohibiting any turn, it shall be unlawful to make a turn.
(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.09 RIDING ON PART OF VEHICLE NOT INTENDED FOR PASSENGERS.

It shall be unlawful to ride on a vehicle or any part of a vehicle not designed for the use of passengers. This does not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in spaces designed for merchandise.
(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.10 TRUCK ROUTES.

(A) This section applies to tractor and tandem tractor-type trucks when pulling semi-trailers or tandem semi-trailers.

(B) The streets or portions of streets designated as state-maintained streets are hereby established as truck traffic routes.

(C) It shall be unlawful to operate any such trucks or trailers for the transportation of property, except when it is impracticable to do so because of street repairs or other emergency, or when necessary to travel on other streets to a destination for the purpose of loading or unloading goods, wares or merchandise, and then only by such deviation from the nearest truck traffic route as is reasonably necessary.

(D) No tractor and/or tandem tractor-type trucks whether alone or pulling semi-trailers or tandem semi- trailers shall park on or off the street in a non-truck traffic route (i.e., residential neighborhood).

(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.11 SOUNDING OF UNREASONABLE NOISE.

It shall be unlawful to operate any vehicle by sounding any horn, whistle, signal devise so as to create any unreasonable, loud or harsh sound, sounding of such device for an unreasonable period of time, or by using any vehicle so out of repair, so loaded, operated in such manner as to create loud or unnecessary grating, grinding, rattling, screeching of tires or other noise.

(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.12 MINI-BIKE, MOTOR BIKE, ATV AND THE LIKE.

(A) It shall be unlawful to operate a motor vehicle, mini-bike, motor bike, go-cart and ATV in Jamestown Park or any town-owned property including vacant lots, rights-of-way, but not including street and legal parking areas.

(B) It shall be unlawful to ride, drive or otherwise negotiate mini-bike, motorcycle, motorized trail bike or other self propelled vehicle, not including automobiles or trucks, on unpaved rights-of-way or vacant areas.

(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.13 TAMPERING.

It shall be unlawful to alter, remove or tamper with an official traffic-control device. It shall be unlawful to drive a vehicle upon a street while same is barricaded and under process of construction or to cause to be removed any barricade placed by authority of the town upon any street or sidewalk.

(Ord. 1997-5-1, passed 5-20-1997) Penalty, see § 71.99

§ 71.14 STREET AND SIDEWALK OBSTRUCTIONS.

(A) It is the duty of the law enforcement officers of the town to take all reasonable measures to prevent the obstruction of streets and sidewalks. It is the duty of the law enforcement officers of the town to enforce all of the provisions of this section and all state motor vehicle laws.

(B) Pursuant to G.S. § 160A-296, the Town Manager, or his or her designee, shall have general authority and control over all town-owned public streets, sidewalks, alleys, bridges and other ways of public passage within town corporate limits. He or she may prohibit placement of objects (publicly or privately owned) within town maintained right-of-way determined to be detrimental to public safety and/or health and in order to keep the public streets, sidewalks, alleys and bridges open for travel and free from unnecessary obstructions.
(Ord. 1997-5-1, passed 5-20-1997)

§ 71.15 SPEED LIMITS.

Per authority granted by G.S. § 20-141, it shall be unlawful to drive any motor vehicle at a speed in excess of 25 mph on any street located within the town limits unless otherwise posted.
(Ord. 2013-02-1, passed 2-19-2013) Penalty, see § 71.99

Cross-reference:

Speed Limits, see Ch. 73, Schd. I

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 70.99 of this code of ordinances.

(B) If any person shall violate §§ 71.01 through 71.14 of this chapter, that person shall be responsible for the infraction and shall be required to pay a civil penalty of up to $50.

(C) (1) Each violation of § 71.15 of this chapter shall be a fixed civil penalty charge in the amount of $25. Violations of § 71.15 of this chapter shall be enforced by the County Sheriff's Department. Any such violation of § 71.15 of this chapter shall not constitute a misdemeanor or infraction punishable under G.S. § 14-4, but instead shall be subject to the civil penalties stated herein and the civil remedies provided by G.S. § 160A-175. The Town Manager, or his or her designee, is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including any additional civil penalty due to delinquency, has not been paid.

(2) The civil penalties imposed in this division (C) and the proceeds therefrom, as collected by payment, civil action or otherwise, shall belong to the town and shall be paid into the General Fund of the town under such conditions, if any, as prescribed in the annual budget of the town.

(3) Fines should be mailed to the Town of Jamestown, PO Box 848, Jamestown, NC 27282 or fines may be paid at the Town Hall, 301 E. Main Street, Jamestown, NC. Payment should be made payable to the town.
(Ord. 1997-5-1, passed 5-20-1997; Ord. 2013-02-1, passed 2-19-2013)

CHAPTER 72: PARKING AND ENFORCEMENT

Section

72.01 Schedule of restricted or prohibited parking areas
72.02 Position of parked vehicle
72.03 Parking so as to obstruct sidewalk, driveway and the like
72.04 Parking by fire hydrants
72.05 Parking near bridge, railroad underpass or overhead bridge
72.06 Parking near railroad grade crossing
72.07 No parking at any time
72.08 Handicapped vehicle parking
72.09 Unlawful parking on street
72.10 Enforcement/notice of violation
72.11 Prima facie evidence

72.99 Penalty

§ 72.01 SCHEDULE OF RESTRICTED OR PROHIBITED PARKING AREAS.

(A) In order to enhance vehicular and pedestrian safety and mobility along town streets, it is necessary to restrict parking along certain town maintained streets and in certain areas as determined by the Town Manager or his or her designee. The town shall erect and maintain all required traffic-control devices and signs to indicate the locations of parking restrictions.

(B) It shall be a civil violation for any person to park contrary to or in violation of any of the traffic- control devices or signs.

(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012) Penalty, see § 72.99

Cross-reference:

Restricted Parking, see Ch. 74, Schd. I

§ 72.02 POSITION OF PARKED VEHICLE.

It shall be unlawful to park a vehicle other than parallel with the curb and headed in the same direction as the nearest lane of vehicle traffic, except in areas where diagonal parking is permitted on a street which is marked with lines indicating such diagonal parking spaces. Vehicles must be parked completely within the lines designating parking spaces.

(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012) Penalty, see § 72.99

§ 72.03 PARKING SO AS TO OBSTRUCT SIDEWALK, DRIVEWAY AND THE LIKE.

It shall be unlawful to park a vehicle so as to obstruct a sidewalk, private driveway, crosswalk, safety zone, railroad crossing or entrance to a fire station or at any other place where official “no parking” traffic signs have prohibited parking.
(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012) Penalty, see § 72.99

§ 72.04 PARKING BY FIRE HYDRANTS.

It shall be unlawful to park a vehicle within five feet in any direction of a fire hydrant, whether the vehicle is attended or unattended.
(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012) Penalty, see § 72.99

§ 72.05 PARKING NEAR BRIDGE, RAILROAD UNDERPASS OR OVERHEAD BRIDGE.

It shall be unlawful to park a vehicle on either side of a street approaching a bridge, railroad underpass or overhead bridge within 50 feet in either direction of the outer edge of such bridge, railroad underpass or overhead bridge, and no person may park a vehicle within an underpass.
(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012) Penalty, see § 72.99

§ 72.06 PARKING NEAR RAILROAD GRADE CROSSING.

It shall be unlawful to park a vehicle on either side of a street approaching a railroad grade crossing within 50 feet in either direction of the nearest rail of such railroad grade crossing.
(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012) Penalty, see § 72.99

§ 72.07 NO PARKING AT ANY TIME.

Areas designated by signage such as, but not limited to, “no parking” are areas in which it shall be a civil violation to park a vehicle at any time.
(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012) Penalty, see § 72.99

§ 72.08 HANDICAPPED VEHICLE PARKING.

It shall be a civil violation to park or leave standing any vehicle in a space designated for physically handicapped persons when such vehicle does not display the proper distinguishing license plate or placard as provided in G.S. § 20-37.6, and where appropriate signs or symbols giving notice thereof are erected marking the designated parking space.
(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012) Penalty, see § 72.99

§ 72.09 UNLAWFUL PARKING ON STREET.

It shall be unlawful to park a vehicle on any public street for the primary purpose of:

(A) Displaying the vehicle for sale;

(B) Advertising;

(C) Washing, vehicle care or repair unless the repairs are made necessary by an emergency; and/or

(D) Selling goods or produce.

(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012) Penalty, see § 72.99

§ 72.10 ENFORCEMENT/NOTICE OF VIOLATION.

(A) The County Sheriff's Department and any other persons as may be designated by the Town Manager are charged with the duty of enforcing this chapter and, therefore, have the authority to attach to any vehicle determined to be in violation of any provision of this chapter, a notice to the owner operator thereof that such vehicle has been parked in violation of the parking ordinances of the town, and instructing such owner or operator that such violation(s) subjects the offender to those civil penalties as described in § 72.99 of this chapter.

(B) Each recipient of the notice referred to in this section may, within 30 days following the date of issuance of the parking violation, pay to the town the civil penalty prescribed in § 72.99 of this chapter in full satisfaction of such violation.
(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012)

§ 72.11 PRIMA FACIE EVIDENCE.

(A) It shall be prima facie evidence in any court in the state that any vehicle which is parked in violation of the provisions of this chapter was parked by the person, entity or corporation in whose name such vehicle is then registered with the Department of Motor Vehicles of the state; except that, the prima facie rule of evidence shall not apply to the registered owner of a leased or rented vehicle parked in violation of the provisions of this chapter when said registered owner of a leased or rented vehicle parked in violation of the provisions of this chapter when said registered owner can furnish sworn evidence in the form of a lease or rental agreement, or has reported to the Division of Motor Vehicles of the state that the vehicle was, at the time of the parking violation, leased or rented to another person.

(B) In such instances, the owner of the vehicle shall, within a reasonable time after being so requested, furnish the town with the name and address of the person, entity or corporation who was leasing or renting the vehicle at the time of the parking violation.

(C) In such event, it shall be prima facie evidence in any court in the state that such vehicle was parked in violation of the provisions of this chapter by the person, firm or corporation who leased or rented the vehicle at the time of the parking violation as reported to the town or the Division of Motor Vehicles of the state by the registered owner of the vehicle.
(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012)

§ 72.99 PENALTY.

(A) Except for handicapped vehicle parking, for each violation set forth in this chapter, there shall be a fixed civil penalty charge in the amount of $25. For unlawful parking in a restricted handicapped space, there shall be a fixed civil penalty charge in the amount of $250. When the owner of a vehicle, or his or her agent, makes proper payment of a parking ticket within 30 days of issuance of the ticket, the obligation shall be discharged. If such charge has not been paid within said 30-day period, the parking violation shall be deemed to be delinquent, and an additional civil penalty of $50, plus any court costs shall be due.

(B) The parking violation ticket shall have stated thereon that payment is due within 30 days following the date of issuance to avoid an additional $50 civil penalty and court costs.

(C) The town is authorized to accept payments in full and final settlement of the claim or claims, or rights of action which the town may have to enforce such civil penalties by civil action in the nature of debt. Failure to pay the civil penalty within the prescribed time shall subject the owner of the vehicle to a civil action in the nature of debt. Failure to pay the civil penalty shall subject the owner of the vehicle to a civil action in the nature of debt for the penalties stated, plus an additional civil penalty in the amount of $50, together with the costs of the action to be taxed by the court. Acceptance of the additional civil penalty and initial civil penalty shall be deemed a full and final release of any and all claims or rights of action arising out of the contended violation.

(D) Violations of this chapter shall be enforced by the County Sheriff's Department. Any such violation of this chapter shall not constitute a misdemeanor or infraction punishable under G.S. § 14-4, but instead shall be subject to the civil penalties stated herein and the civil remedies provided by G.S. § 160A-175. The Town Manager, or his or her designee, is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including any additional civil penalty due to delinquency, has not been paid.

(E) The civil penalties imposed herein and the proceeds therefrom, as collected by payment, civil action or otherwise, shall belong to the town and shall be paid into the General Fund of the town under such conditions, if any, as prescribed in the annual budget of the town.

(F) Fines should be mailed to the Town of Jamestown, PO Box 848, Jamestown, NC 27282 or fines may be paid at the Town Hall, 301 E. Main Street, Jamestown, NC. Payments should be payable to the town.
(Ord. 2011-6-1, passed 6-21-2011; Ord. passed 3-20-2012; Ord. passed 9-18-2012)

CHAPTER 73: TRAFFIC SCHEDULES

Schedule

I. Speed limits

SCHEDULE I. SPEED LIMITS.

Street	*Location*	*Speed Limit*
Dillon Road (S.R. 1334)	From Deep River to southern corporate limits (0.55 miles)	35 mph
Guilford Road (S.R. 4241)	From East Main Street (S.R. 4121) to Guilford College Road (S.R. 1546)	35 mph
Main Street (S.R. 1486)	From a point 0.02 mile west of Forestdale Drive to a point 0.092 mile east of S.R. 1334 (Ragsdale/Dillon Road) (Jamestown Elementary School, in effect from 30 minutes before to 30 minutes after school begins and ends on school days only)	25 mph
Oakdale Road (S.R. 1352)	From U.S. 29A-70A to Harvey Road (S.R. 1355)	35 mph
Penny Road (S.R. 1536)	From West Main Street (S.R. 1486) to the northern corporate limits (0.33 miles)	35 mph
Ragsdale Road (S.R. 1334)	To West Main Street (S.R. 1486) Deep River	35 mph
Scientific Street (S.R. 1332)	From the southern corporate limit, approximately 0.32 mile south to U.S. 29-70A, northward to U.S. 29-70A	40 mph
U.S. 29A-70A	From the western corporate limits to the eastern corporate limits	35 mph

(Ord. 1964-10-2, passed 10-21-1964; Ord. 1964-10-3, passed 10-21-1964; Ord. 1980-12-1, passed 12-16-1980; Ord. 1990-6-1, passed 6-19-1990; Ord. 1992-3-1, passed 3-17-1992; Ord. 2007-06-03, passed 6-19-2007; Ord. passed 2-19-2013; Ord. passed 10-20-2015)

CHAPTER 74: PARKING SCHEDULES

Schedule

I. Restricted parking

SCHEDULE I. RESTRICTED PARKING.

Street	***Location***	***Side(s)***	***Restriction***	***Penalty***
	Traffic circle at Jamestown Park, adjoining the Clubhouse		No parking	Misdemeanor; fine not to exceed $50
Main Street		North, south	No parking	Misdemeanor; fine not to exceed $50
Oakdale Road			No parking	Misdemeanor; fine not to exceed $50
Penny Road	From West Main Street to the town limits		No parking	Misdemeanor; fine not to exceed $50
Robbins Avenue	For a distance of 500 feet from Highway 29-70	North, east	No parking	
Wade Street			No parking	Misdemeanor; fine not to exceed $50

(Ord. 1950-12-1, passed 12-20-1950; Ord. 1980-9-1, passed 9-16-1980; Ord. 1983-10-1, passed 10-18-1983; Ord. 1984-9-1, passed 9-18-1984; Ord. 1984-9-2, passed 9-18-1984)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS
91. FIRE PREVENTION
92. ADVERTISING MATTER
93. ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES
94. NOISE
95. PUBLIC NUISANCES

CHAPTER 90: ANIMALS

Section

General Provisions

90.01 Definitions
90.02 Territorial application
90.03 General duties of Animal Control
90.04 Regulation of high volume breeders and retailers
90.05 Additional requirements for dog breeders and dog retailers who are maintaining facilities in violation of this chapter
90.06 Interference or concealment
90.07 General duties of keepers/owners of animals
90.08 Bird sanctuaries
90.09 Animals running at large prohibited
90.10 Public nuisance prohibited
90.11 Confinement and control of inherently dangerous mammals
90.12 Dangerous or vicious animals prohibited
90.13 Animal fighting and baiting prohibited
90.14 Mistreatment of animals prohibited
90.15 Cruel treatment prohibited
90.16 Notice in case of injury
90.17 Destruction of animals that cannot be seized by reasonable means
90.18 Setting humane animal traps and authority to receive trapped animals
90.19 Impoundment
90.20 Procedure with respect to redemption of unvaccinated animal
90.21 Humane euthanasia of wounded or diseased animals
90.22 Handling of stray animals by the public
90.23 Security dogs
90.24 Relation to hunting laws
90.25 Wild animals

90.26 Exotic animals
90.27 Severability

Rabies Control

90.40 Compliance with state rabies laws; chapter supplemental to state rabies laws
90.41 Vaccination of dogs, cats and other pets
90.42 Vaccination tag and certificate
90.43 Report and confinement of animals biting persons or showing symptoms of rabies
90.44 Destruction or confinement of animal bitten by a known rabid animal
90.45 Area-wide emergency quarantine
90.46 Postmortem diagnosis
90.47 Unlawful killing, releasing and the like of certain animals
90.48 Failure to surrender an animal for quarantine or euthanasia

Breeder/Litter Permits

90.60 Breeder permit/fee

90.99 Penalty

GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADEQUATE EXERCISE or ***EXERCISE.*** The opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size and condition of the animal.

ADEQUATE SHELTER.

(1) Provision of and access to shelter that is suitable for the species, age, condition, size and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight and the adverse effects of heat or cold, physical suffering and impairment of health; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and for dogs and cats, provides a solid surface, resting platform, pad, floormat or similar devices that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner.

(2) Under this chapter, ***SHELTER*** whose wire grid or slat floors, which:

(a) Permit the animal's feet to pass through the openings;

(b) Sag under the animal's weight; or

(c) Otherwise do not protect the animal's feet or toes from injury are not adequate shelter.

ADEQUATE SPACE.

(1) Sufficient space to allow each animal to:

(a) Easily stand, sit, lie, turn about and make all other normal body movements in a comfortable, normal position for the animal; and

(b) Interact safely with other animals in the enclosure.

(2) Birds must be provided with adequate perches appropriate to the species which allow the bird to stand completely upright without having any head contact with the ceiling of the cage and any tail contact with the floor or grate of the cage. Cages must be sufficient size to allow the bird to fully extend it wings. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of ***ADEQUATE SPACE***.

AMBIENT TEMPERATURE. The temperature surrounding the animal.

ANIMAL. Every living creature, domestic or non-domestic, but does not include humans and does not include invertebrates.

ANIMAL CONTROL. The Animal Control component of the agency which includes the Animal Control function for the jurisdiction, however denominated.

ANIMAL CONTROL OFFICERS. Any Animal Control Officer employed by the jurisdiction.

ANIMAL CONTROL SUPERVISOR. The officer or employee placed in supervision of the Animal Control Officers and activities of the jurisdiction. In the county, the ***ANIMAL CONTROL SUPERVISOR*** is the Animal Shelter Director or designee.

ANIMAL CRUELTY INVESTIGATORS. All persons appointed by the Board of County Commissioners as county animal cruelty investigators under G.S. Ch. 19A.

ANIMAL SHELTER. The Animal Shelter operated and maintained by the county for the purpose of impounding animals under the authority of this chapter or the General Statutes of the state for the care, confinement, return to owner, adoption or humane euthanasia.

AT LARGE. An animal that is not in an enclosure or is otherwise not under physical control or is not under the control of the owner or other responsible person by means of a leash, cord or chain.

CAT. A domestic feline of either sex.

DANGEROUS OR VICIOUS ANIMAL. Any animal, whose behavior constitutes a risk of injuring a human or domestic animal or which, by nature, is commonly accepted as dangerous or non- domesticated. Such behavior includes, but is not limited to, the animal's biting or attacking or attempting to bite or attack any person or other domestic animal. The following criteria will be used in identifying an animal that is attacking or attempting to attack:

(1) Any animal which, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack;

(2) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of human beings or domestic animals;

(3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting; and/or

(4) An animal shall not be deemed dangerous solely because it bites, attacks or menaces:

(a) Anyone assaulting the owner or trespassing upon the property of the owner;

(b) Any person or other animal that has tormented or abused it; or

(c) While protecting or defending its young.

DEPARTMENT. The Guilford County Animal Shelter.

DOG. A domestic canine of either sex.

DOMESTIC ANIMAL. Any of various animals such as horses, sheep, cattle, goats, hogs, poultry and the like domesticated by humans so as to live and breed in a tame condition.

EXOTIC OR WILD ANIMAL. An animal that would ordinarily be confined to a zoo; one that would ordinarily be found in the wilderness of this or any other country; one that is a species of animal not indigenous to the United States or to North America; or one that otherwise is likely to cause a reasonable person to be fearful of significant destruction of property or of bodily harm, and the latter includes, but is not limited to, monkeys, raccoons, squirrels, venomous reptiles and other such animals. Such animals are further defined as being those mammals or non-venomous reptiles weighing over 20 pounds at maturity, which are known at law as free nature. ***EXOTIC OR WILD ANIMALS*** specifically do not include animals of a species customarily used in the state as ordinary household pets, animals of a species customarily used in the state as domestic farm animals, fish confined in an aquarium other than piranha, birds or insects.

EXPOSED TO RABIES. Any animal or human bitten by or exposed to any animal known or suspected to have been infected with rabies.

HARBORING AN ANIMAL. An animal shall be deemed to be harbored if it is fed or sheltered seven days or more, unless the animal is being boarded for a fee.

HARSH WEATHER CONDITIONS. Conditions of extreme temperature and/or perception, and including exposure to sunlight, which may cause a risk of harm to an animal subjected to prolonged exposure without receiving shelter.

HIGH-VOLUME DOG BREEDER. Any breeder who, during any calendar year maintains more than seven or more intact female dogs. A veterinarian who provides whelping services within a veterinarian- client-patient relationship, and has no ownership interest in the bitch, is not included in this definition.

HIGH-VOLUME DOG RETAILER. Any person who sells, resells or transfers ownership of more than 50 dogs during any calendar year, including sale, resale and transfer of dogs to pet stores, breeders, kennels and dealers, and sale, resale and transfer that occur via the Internet.

INHERENTLY DANGEROUS MAMMAL. Any live member of the canidae, felidae or ursidae families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans and which include:

(1) Canidae, including any member of the dog (canid) family not customarily domesticated by humans, or any hybrids thereof, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including domestic dogs (Canis Familiaris);

(2) Felidae, including any member of the cat family weighing over 15 pounds not customarily domesticated by humans, or any hybrids thereof, but not including domestic cats (Felis catus); and

(3) Ursidae, including any member of the bear family, or any hybrids thereof.

IMPOUNDED. Any animal which is received into custody by any employee of Animal Control.

INCORPORATED AREA. On property within the City of High Point, within the City of Greensboro or within the town. This term shall also apply to area within the corporate limits of

any town or municipality in the county if the governing body of such town or municipality adopts a resolution indicating that it is to be treated as an ***INCORPORATED AREA*** under this chapter.

KEEPER. A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

MANAGER. The manager of the jurisdiction or his or her designee.

NEUTERED MALE. Any male dog or cat which has been rendered sterile by a surgical procedure.

OUTSIDE ENCLOSURE. A pen large enough to provide each dog less than 25 pounds with a kennel of at least three feet by ten feet in size, and each dog 25 pounds or greater with a kennel of at least five feet by ten feet in size. Animal Control services reserves the right to determine if a space is considered suitable for the number and size of dogs housed in an ***OUTDOOR ENCLOSURE***.

OWNER. Any person, group of persons, firm, partnership, corporation, organization, association owning, keeping or any person having charge of, sheltering, feeding, harboring or taking care of for seven or more consecutive days unless the animal is being boarded for a fee. The ***OWNER*** is responsible for the care, actions and behavior of his or her animals.

PROPERLY CLEANED. Carcasses, debris, food waste, excrement and standing water or liquid wastes are removed from the shelter or enclosure with sufficient frequency to minimize the animal's contact with the above-mentioned contaminants and keep the shelter or enclosure in a sanitary condition reasonably free of disease-causing agents and odors offensive to the public; and the shelter or enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with any stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

PROPERLY LIGHTED. When referring to a facility, sufficient illumination to permit routine inspections, maintenance, cleaning and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals. When referring to a private residential dwelling and its surrounding grounds, ***PROPERLY LIGHTED*** means sufficient illumination to permit routine maintenance and cleaning therefor, and observation of companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

PUBLIC HEALTH DIRECTOR. The Director of the county's Department of Public Health.

RESTRAINT. An animal is under restraint if it is under sufficient physical restraint such as a leash, cage, bridle or similar effective and humane device which restrains and controls the animal, or within a vehicle, or adequately contained by a fence on the premises, or an invisible fence or other secure enclosure. If any animal is restrained by a chain, leash or similar restraint, it shall be designed and placed to prevent choking or strangulation. Such chain or restraint shall not be less than ten feet in length and either on a swivel designed to prevent the animal from choking or strangling itself, or on a chain run.

SECURITY DOG. A dog on a premises specifically for the purpose of protecting the premises from any intruder and for attacking a person coming in the vicinity of the dog. A dog that is trained or conditioned to attack or otherwise respond aggressively without command.

SPAYED FEMALE. A female dog or cat which has been rendered sterile by a surgical procedure.

STRAY. Any domestic animal that is not under restraint or is not on the property of its owner and is wandering at large, or is lost, or does not have an owner, or does not bear evidence of the identification of any owner.

SUSPECTED OF HAVING RABIES. An animal which has bitten a person or another animal or a wild animal which has bitten a person or a domestic animal.

TETHERING. Tying out or fastening a dog outdoors on a rope, chain or other type of line for holding a dog. This shall not include tying out or fastening of a dog outdoors on an attended leash.

TRESPASS. Trespass means that the victim of a bite or attack by an animal wrongfully invaded the property of the owner. The cause of the individual to be on the property and any other relevant circumstances shall be considered in order to determine whether or not a ***TRESPASS*** has occurred. A child under the age of seven shall not be deemed to be a ***TRESPASSER***.

UNINCORPORATED AREA. Any area of the county not within an "incorporated area", as defined above.

VACCINATION. The administration of rabies vaccine as required by the law.

VETERINARIAN CONSULTANT. An accredited licensed veterinarian who will provide veterinarian services including the administering of drugs used for euthanasia and observation and release (if appropriate) of rabies cases.

WATCH DOG. A dog that barks and threatens to bite any intruder that has not been specially trained or conditioned for that purpose.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.02 TERRITORIAL APPLICATION.

(A) This chapter shall be effective within the unincorporated areas of the county and within all towns which have a standing resolution or ordinance adopting county ordinances.

(B) This chapter shall be effective within the City of High Point and the City of Greensboro upon passage by the respective city councils of a resolution adopting this chapter.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.03 GENERAL DUTIES OF ANIMAL CONTROL.

Animal Control shall be charged with the responsibility of:

(A) Enforcing all laws of the state and all ordinances of the jurisdiction pertaining to animals and shall cooperate with all law enforcement officers within the jurisdiction in fulfilling this duty;

(B) Cooperating with the Health Director and assisting in the enforcement of all laws of the state with regard to animals and especially with regard to vaccination of dogs against rabies and the confinement or leashing of vicious animals;

(C) Making canvasses of the county, including homes and any businesses in the county, as necessary for the purpose of ascertaining compliance with this chapter or state statute;

(D) Investigating all reported animal bites or other human physical contact with the suspected rabid animal, enforcing quarantine ordered of any animal involved, and submitting bite reports and reports of human contacts to the Health Director;

(E) Investigating complaints of county residents with regard to animals;

(F) Protecting animals from neglect and abuse; investigating cruelty or animal abuse with regard to dogs, cats and other animals and enforcement of state law and county ordinance regarding cruelty;

(G) Investigating all reports or observations of incidents of harassment of or injuries to domesticated livestock caused by animals;

(H) Seizing and arranging for impoundment, where deemed necessary, of any dog or other animal in the county involved in a violation of this or any other county ordinance or state law;

(I) Keeping, or causing to be kept, accurate and detailed records of:

(1) Seizure, impoundment and disposition of all animals coming into custody of the Animal Control Division;

(2) Bite cases, violations and complaints, and investigation of same, including names and addresses of persons bitten, date, circumstances and breed;

(3) All monies belonging to the county which were derived from penalties; and

(4) Any other matters deemed necessary by the Animal Control Supervisor and Manager.

(J) Being empowered to issue notices of violations or citations of this chapter in such form as the Animal Control Supervisor may prescribe.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.04 REGULATION OF HIGH VOLUME BREEDERS AND RETAILERS.

(A) *Permit.* No person may act as a high volume breeders or retailer, except in accordance with a permit issued pursuant to this section.

(B) *Proof of conditions.* Animal Control shall issue the permit required by this section. Before issuing the permit, Animal Control shall require proof that each of the conditions set out herein have been met by the breeder.

(C) *Application.* The application for a permit shall include the name, address and telephone number of the owner of the animals, the address and physical location of the kennel. It shall also include the number, breed, type and age of the animals.

(D) *Requirements.*

(1) *Housing.*

(a) Shall provide for sanitary and safe housing for dogs, and shall provide adequate space appropriate to the age, size, weight and breed of the dog and that allows the dog to engage in normal body movements, including the ability to sit, stand up, turn about freely or lie fully recumbent in a natural position. The primary enclosure shall provide at least partial solid flooring. Non-solid flooring must be safe for the breed, size and age of the dog; be

free from protruding sharp edges; and be designed to that the paw of the dog is unable to extend through or become caught in the flooring.

(b) Each dog, if housed in a primary enclosure, whether housed alone or with other compatible dogs, shall be provided a minimum amount of space, calculated as:

1. For non-breeding dogs housed together, the primary enclosure shall provide 100% of the required space for each dog, if maintained separately;

2. Each bitch with nursing puppies must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accord with generally accepted husbandry practices as determined by the attending veterinarian. If the additional amount of floor space for each nursing puppy is less than 5% of the minimum requirement for the bitch, such housing must be approved by the county;

3. The interior height of a primary enclosure must be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position; and

4. Innovative primary enclosures not precisely meeting the floor area requirements provided in divisions (D)(1)(b)1., (D)(1)(b)2. and (D)(1)(b)3. above, but that provide the dogs with a sufficient volume of space and the behavioral needs stated in division (F) below may be used at an operation when approved by the county.

(2) *Shelter.* Shall provide protection from harmful extremes of temperature, air movement, moisture, light and other climatic elements to ensure proper health and well-being of the dog.

(3) *Storage facilities.* Shall be designed and maintained as to provide adequate storage to protect food, medicines, supplies and bedding from deterioration, contamination and vermin infestation. Any potentially toxic substance should be stored in a manner to avoid contamination and potential for harm to the dogs.

(4) *Structure.* Shall be structurally sound, in good repair, have no sharp edges or points that could injure the dog(s), and shall securely contain the dogs while precluding access by other animals. Structural surfaces should be sanitizable or replaceable.

(5) *Waste disposal.* All excreta, feces, debris and food wastes must be removed from enclosures, at least once daily, and from under primary enclosures as often as necessary, to prevent an excessive accumulation of feces and food waste, to prevent soiling of dogs contained in the enclosure, and to reduce disease hazards, insects, pests and odors. Premises must be kept free of accumulations of trash, junk, waste products and discarded matter. Waste must be handled and disposed of in a manner that poses minimal hazards to dogs and personnel, and reduces the likelihood of contamination of the soil or ground water with chemicals and/or microorganisms.

(6) *Cleaning and sanitation.* Hard surfaces with which the dogs come in contact must be spot-cleaned daily and sanitized at least once every two weeks and more often if necessary to prevent accumulation of dirt, debris, food waste, excreta and other disease hazards. When steam or water is used to clean the primary enclosure, whether by hosing, flushing or other methods, dogs must be removed, unless the enclosure is large enough to ensure the dogs will not be harmed, wetted or distressed in the process. Standing water must be removed from the primary enclosure and dogs in other primary enclosures must be protected from being contaminated with water and other wastes during cleaning.

(7) *Lighting.* The facility shall have sufficient lighting by natural and/or artificial means as to allow observation of the physical condition of the dogs being housed, and to permit inspection and cleaning of the facility. A diurnal lighting cycle should be provided.

(8) *Environment.* Dogs shall be protected from extreme temperatures so as to maintain their health and render their environment comfortable. When climatic conditions pose a threat to a dog's health or well-being, taking into consideration such factors as the dog's age, breed, overall health status and acclimation, appropriate measures must be taken to alleviate the impact of those conditions. Adequate ventilation shall be provided to minimize odors, drafts, ammonia levels and to prevent the condensation of moisture.

(9) *Pest control.* An effective program for the control of insects, external parasites affecting dogs and birds and mammals that are pests, must be established and maintained so as to promote the health and well-being of the dogs and reduce contamination by pests in dog areas.

(10) *Retreat area.* Dogs shall also be provided in their primary enclosure some form of a den, which shall comprise at least a solid floor and visual barrier, as to allow rest and retreat.

(11) *Whelping box.* All bitches with litters shall be provided an appropriate whelping box, which should provide means to contain the puppies during whelping, and provide some form of substrate, insulation or heat source so as to prevent dissipation of heat so that all puppies are able to maintain appropriate body temperature. If a heat source is provided, care must be taken to protect the bitch and puppies from thermal injury.

(E) *Nutrition and hydration.*

(1) *Adequate food.* A dog shall be fed at least once daily, or as otherwise required on the advice of a veterinarian. The food should be free from contaminants and be of sufficient nutritive value and quantity to maintain the normal condition and weight of the dog as germane to its age, sex, breed and reproductive status.

(2) *Potable water.* Shall be provided at all times, unless otherwise directed by a veterinarian.

(3) *Food and water receptacles.* Shall be readily accessible to all dogs and shall be located to minimize contamination and to protect them from precipitation. Any non-disposable receptacles shall be durable, cleaned daily and sanitized at least once per week; disposable receptacles shall be replaced daily, and automatic feeders shall be cleaned and sanitized regularly to prevent the growth of mold and deterioration or caking of feed. Automatic watering devices shall be kept clean, be properly and regularly sanitized, and be tested daily to ensure they are functioning correctly.

(F) *Behavioral requirements.*

(1) *General.*

(a) The following behavioral needs shall be met at least daily, except as stated otherwise. All persons should have a documented protocol regarding how to meet the following necessary behavioral needs and sufficient facilities and/or staff to meet them.

(b) The goal shall be to allow dogs the opportunity to partake in species-specific behaviors. Dogs shall not be housed for extended periods of time in a manner devoid of any enrichment and/or activity and/or social contact.

(2) *Conspecific socialization.* Dogs shall be provided with full-body physical contact with other compatible dogs daily, except as necessary for reasons such as veterinary

treatment or quarantine, or prior to parturition for a bitch. Prior to weaning, a bitch and her litter shall fulfill all conspecific socialization needs among the group.

(3) *Human socialization.* Dogs shall be provided with daily positive human contact and socialization. Contact during feeding time alone is not sufficient to meet this requirement. Every effort should be made to provide dogs that are housed singly with visual enrichment, such as visual contact with conspecifics or humans, except as necessary for veterinary care, quarantine or prior to parturition for a bitch.

(4) *Locomotion.*

(a) Persons shall ensure that each dog that is weaned has access to "locomotory activity"; this activity should allow for an animal to move sufficiently to develop and/or maintain normal muscle tone and mass as pertinent for the age, breed, sex and reproductive status of the dog. Provisions for locomotory activity should also allow the dog an opportunity to achieve a running stride.

(b) The provided area for locomotion should be separate from the primary enclosure if the primary enclosure does not allow for fulfillment of adequate locomotion enrichment and social activities. The area must be kept clean, free of infestation by pests or vermin and prevent escape of the dogs.

(c) Forced activity, other than for veterinary treatment, is neither sufficient nor appropriate for fulfilling these needs. Physical activity that is repetitive, restrictive of other activities, solitary and not goal oriented is neither sufficient, nor appropriate, for fulfilling all activity needs.

(G) *Grouping.*

(1) Dogs having locomotory activity in groups and/or social interaction must be compatible and free of infectious disease.

(2) Females in heat shall not be housed in the same primary enclosure with males, except for breeding purposes.

(3) Any dog exhibiting a vicious or aggressive behavior shall be housed separately, as needed to prevent injury to other dogs. As with quarantine, separation of dogs due to aggression should be accompanied by a program to resolve the underlying causes of this disorder.

(4) Isolation of any dog with an infectious disease or condition: if a dog is infected with a contagious disease or condition as determined by a licensed veterinarian, one must house the dog separately from healthy animals, and shall handle the dog in a manner that will minimize the likelihood of contagion. Handlers must wash their hands before and after handling each infected or contagious dog.

(H) *Staff.*

(1) An adequate number of trained staff must be provided to ensure appropriate upkeep of the facility and that all minimum care requirements for the dogs can be met.

(2) The permittee shall not hire individuals who have pled no contest or have been found to have violated any federal, state or local laws or regulations pertaining to animal cruelty within one year of application for employment, or more than one year if the board/agency determines the circumstances render the applicant unfit for employment.

(3) The permittee shall report to the board/agency any no contest pleas or convictions pertaining to animal cruelty involving any of his or her employees that occur during the time they are employed by licensee.

(I) *Handling.* Handling of all dogs should be done as carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm or unnecessary discomfort.

(J) *Health and veterinary care.* All persons shall:

(1) Ensure that necessary routine and preventive veterinary care is provided under the direction of a licensed veterinarian, and maintain a written health care management protocol addressing routine veterinary care. At a minimum, regular preventive care should include examination at least once yearly by a licensed veterinarian for breeding dogs;

(2) Assess each dog's health and welfare daily; this should include observation of body condition (e.g., appropriate weight, skin/coat/nail condition), behavior and whether the dog is eating, drinking, urinating and defecating normally;

(3) Provide prompt treatment of illness or injury under the direction of a licensed veterinarian;

(4) Maintain records of any veterinary care, including records of regular preventive veterinary care;

(5) Ensure that humane euthanasia is performed when necessary and only by a licensed veterinarian, or other certified personnel pursuant to state regulations, using methods cited in the American Veterinary Medical Association's Guidelines on Euthanasia and in accordance with applicable federal and state laws;

(6) Upon written approval by a licensed veterinarian or the county, any dog may be exempted from any of the standards of care mentioned in division (D) above; reasonable expiration date must be provided for such exemptions at which time the exemption shall be re-evaluated to determine whether it is still appropriate; and

(7) All veterinary care provided pursuant to the requirements in this chapter shall be provided within a veterinarian-client-patient relationship, and in accord with the state's Veterinary Practice Act, with provisions for both routine and emergency care.

(a) Any person, household or business entity permitted to conduct breeding operations shall allow the county's Animal Control to inspect, at reasonable times, without notification, at least one time per year, any premise used by the breeder for breeding animals. The purpose of the inspection shall be to ensure the safety and health of the animals used in the breeding operation and compliance of the breeder with laws regulating the breeding and care of the animals in the care, custody and control of the breeder. Animal Control may revoke the permit of any breeder who refuses to allow an inspection of the breeder's premises used for breeding operations. Any breeder or retailer must demonstrate compliance with relevant, applicable local regulations.

(b) The requirements of this section apply to all breeders in operation on the effective date of this section, as well as any established thereafter.

(c) A permit issued in accordance with this section may be revoked by Animal Control for violation of any of the conditions enumerated under division (J)(7)(b) above. Animal Control shall state the reason for revocation in writing and shall deliver the determination of revocation to the permittee personally or by registered or certified mail, return receipt requested.

(d) Any person who is denied a permit or whose permit is revoked pursuant to this section shall have 30 days to comply with the requirements of this section or to reduce the number of animals not spayed or neutered on the premises to not more than four.

(e) Any person who is denied a permit or who has a permit revoked may appeal the denial or revocation to the County Manager or his or her designee by giving written notice of appeal to the County Manager within 30 days after the receipt of the written determination. The County Manager or his or her designee shall conduct a de novo hearing to determine if the permit should be denied or revoked. Any enforcement action shall stay pending upon determination of an appeal pursuant to this division (J)(7).
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.05 ADDITIONAL REQUIREMENTS FOR DOG BREEDERS AND DOG RETAILERS WHO ARE MAINTAINING FACILITIES IN VIOLATION OF THIS CHAPTER.

(A) This section applies to:

(1) Any dog breeder or dog retailer who is not required to obtain a permit pursuant to § 90.04 of this chapter; and

(2) Has been determined to operate a kennel or operate as a dog retailer in violation §§ 90.11, 90.12, 90.13, 90.14, 90.15 and 90.24 of this chapter.

(B) Any person subject to the requirements of this section must meet the standards of § 90.04 of this chapter for the breeding and/or dog retail operation for a period of two years after the notice of violation; such fees as set out in the fee schedule.

(C) For the purposes of this section, any person who has received a notice of violation for any of the above referenced sections will be deemed covered by the requirements of this section; if any/all citations or penalties issued are at some point overturned or deemed void, the person will have no further obligations under this section; however, the compliance review cost, plus any other costs incurred by the person, pursuant to the provision of this section during such time when compliance was necessary, may not be recovered.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.06 INTERFERENCE OR CONCEALMENT.

(A) *Interference.* It shall be unlawful for any person to interfere with, hinder, molest, resist or obstruct employees of Animal Control or its agents or veterinarians in the performance of any duty authorized by law or ordinance, or to seek to release any dog or cat in the custody of such agents (including from traps, cages or other enclosures), except as specifically provided or authorized by Animal Control.

(B) *Concealment of animal.* It shall be unlawful for any person to conceal, for the purpose of evading the licensing requirement or rabies vaccination requirement of the law or any applicable ordinance, any unlicensed or unvaccinated animal from any employee of Animal Control.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.07 GENERAL DUTIES OF KEEPERS/ OWNERS OF ANIMALS.

It shall be unlawful for any keeper or owner of animals, to keep animals under unsanitary or inhumane conditions or to fail to provide proper food and water daily, adequate exercise, adequate shelter which is properly cleaned and properly lighted, adequate space or to fail to provide proper medical attention for sick, diseased or injured animals, including treatment by a veterinary consultant if appropriate for the animal's health or condition, as well as adequate inoculation against disease, according to the species of the animal kept. If an Animal Control Officer or law enforcement officer seizes an animal, and no attempt is made by the owner(s) to recover or appeal the seizure, the animal will be deemed abandoned after six working days and all owners' rights shall be forfeited to the county.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.08 BIRD SANCTUARIES.

Previous designations of bird sanctuaries by cities or towns in the county are unaffected by adoption of this chapter and remain in effect.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.09 ANIMALS RUNNING AT LARGE PROHIBITED.

(A) It shall be unlawful for any person owning or controlling any animal to allow the same to create a nuisance or public danger by running at large. It shall be the duty of Animal Control and/or law enforcement officers to take up and deliver any domesticated animal (e.g., dog, cat), including fowl and other domestic animals within the meaning of this ordinance found running at large to the county's Animal Shelter. Each person owning or controlling an animal, including fowl, shall be responsible for taking whatever measures are reasonably necessary for keeping the animal on the owner's premises or under the owner's control when off his or her premises.

(1) *Restraint of animals (in incorporated areas or on less than one acre).* It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, excluding cats, to keep such animal on or off his or her premises unless such animal is under sufficient physical restraint such as a leash, bridle, cage or similar device which restrains and controls the animal (subject to the provisions set out in § 90.14 of this chapter), within a vehicle or adequately contained by a fence on the premises or other secure enclosure. If the owner possesses and maintains an effective and working invisible fence system to restrain his or her animals, a visible and permanent sign must be on the premises that states an invisible fence system is in use.

(2) *Restraint of animals (on one acre or more in unincorporated areas).* Notwithstanding the provisions of division (A)(1) above, animals kept on a lot or parcel of real property in an unincorporated area one acre or greater in size do not have to be kept within a fence or other secure enclosure or under any physical restraint while on such premises. This

exemption does not relieve any person of the duty to prevent his or her animal from constituting a nuisance under § 90.10 of this chapter.

(B) This chapter shall not be interpreted as restricting persons owning specially trained hunting/ working dogs, which can be controlled by voice commands, from actually using their dogs for hunting/working (in the presence of, and under the voice control of, the owner or an agent of the owner) in unincorporated areas of the county where such activities are not prohibited by law.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.10 PUBLIC NUISANCE PROHIBITED.

(A) The actions of an animal constitute a public nuisance when an animal disturbs the rights of, threatens the safety of, or damages, a member of the general public or interferes with the ordinary use and enjoyment of another's property.

(B) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance. By way of example and not of limitation, the following acts or actions by an owner or possessor of an animal are hereby declared to be a public nuisance and are therefore unlawful:

(1) Having an animal that disturbs the rights of, threatens the safety of, or damages, a member of the general public or interferes with the ordinary use and enjoyment of one's property;

(2) Allowing or permitting an animal to damage the property of anyone other than its owner/possessor, including, but not limited to, turning over garbage containers, or damaging gardens, flowers or vegetables, or defecating upon the property of another;

(3) Maintaining the animals in an unsanitary environment which results in offensive odors or is dangerous to the animal or the public health, safety or welfare, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease;

(4) Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property;

(5) Allowing or permitting an animal to bark, whine, howl, crow or cackle in a long-continued or frequent fashion so as to interfere with the reasonable use and enjoyment of neighboring premises;

(6) Maintaining an animal that is diseased and dangerous to the public health;

(7) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, animals walked on a leash by owners, bicycles or other vehicles;

(8) Being repeatedly at large or failing to exercise sufficient restraint necessary to control a dog; and

(9) Failing to confine a female dog or cat while in heat in a building or secure enclosure in such a manner that she will not be in contact with another dog or cat or attract other animals; provided, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of the animal which is being bred.

(C) (1) In addition to any other enforcement remedies available under this chapter, if the Animal Control Supervisor declares an animal to be a nuisance under this section, then the Animal Control Supervisor has the authority to order the owner to confine the animal in accordance with the Animal Control Supervisor's instruction.

(2) It shall be unlawful for the owner to fail to comply with such an order or with the instructions in the order.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.11 CONFINEMENT AND CONTROL OF INHERENTLY DANGEROUS MAMMALS.

(A) *Generally.* It shall be unlawful for any owner to keep an inherently dangerous mammal within the county.

(B) *Exemptions.* The following shall be exempt from this chapter:

(1) Any non-profit institution or exhibitor or dealer, which owns or harbors inherently dangerous mammals for research; provided that, the institution/facility/premises are licensed by the U.S. Department of Agriculture or Interior;

(2) Traveling fairs, circuses and carnivals shall also be exempt from this section; and

(3) Any inherently dangerous mammal registered with the Animal Control Section prior to 6-3-1990.

(C) *Recapturing.* The owner of any inherently dangerous mammal shall reimburse the county for all costs incurred while attempting to recapture any mammal. If the animal is sheltered or euthanized by Animal Control, the owner shall also pay these costs.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.12 DANGEROUS OR VICIOUS ANIMALS PROHIBITED.

(A) *General provisions.* It shall be unlawful for any person to own or in any way maintain or harbor any animal which is dangerous or vicious, except as provided in this chapter.

(B) *Enforcement.*

(1) If an Animal Control Officer or law enforcement has determined that an animal is dangerous, then the Animal Control Officer or law enforcement officer shall notify the owner immediately in writing. The owner shall turn the animal over to the county's Animal Shelter or to an Animal Control approved veterinary clinic within 24 hours of such notification. After six working days, the county's Animal Shelter or Animal Control Officer shall have the duty and authority to impose one of the following remedies:

(a) Require forfeiture of ownership of the animal(s) to the county; or

(b) Enforce compliance with division (E) below.

(2) Any animal declared to be a dangerous or vicious animal, by the Animal Control Officer or law enforcement officer, shall not be disposed of for research or experimental

purposes. Failure to comply with this section or any parameters herein may result in assessed civil penalties and/or forfeiture of animal(s).

(C) *Appeal.* Any person who owns an animal that has been declared dangerous or vicious by an Animal Control Officer or law enforcement officer shall have the right to appeal this decision an appellate Board in accordance with G.S. §§ 67-4.1 et seq. The owner of an animal declared dangerous or vicious shall have the right to request a hearing contesting that determination by submitting a written request to the office of the manager or his or her designee within five working days of the Animal Control Officer's or law enforcement officer's determination that the animal is dangerous or vicious. A deposit may be required by the owner equal to the estimated costs, including veterinary care for ten days' boarding. Failure to pay said deposit when required shall be deemed a waiver of all rights regarding the animal.

(D) *Hearing procedures.*

(1) The Manager or his or her designee, serving as the appeal's hearing officer, shall chair an appellate board to conduct a hearing to determine that the Animal Control Officer's or law enforcement officer's determination that the animal is dangerous or vicious should be upheld. The board shall:

(a) Make a determination as to whether or not the animal is dangerous or vicious, or otherwise possess a sufficient risk to the health or personal property of others;

(b) Determine the appropriate means of compliance in accordance with division (D)(1)(a) above; and

(c) Issue such other order of direction as is necessary to enforce compliance with this section.

(2) If the animal is determined, based on the discretion of the board, not to be dangerous or vicious, it shall be returned to the owner. If the board determines the animal to be dangerous or vicious, then the county's Animal Shelter or Animal Control Officer or law enforcement officer shall dispose of the animal in accordance with the determination of the appeals board. In the event of an appeal of the board's decision to the courts, the animal shall be confined at the county's Animal Shelter pending the appeal. The owner of the animal shall be responsible for paying all boarding, veterinarian and other expenses associated with keeping the animal during the appeal.

(E) *Enclosures for dangerous or vicious animals.* If an animal has been determined to be dangerous or vicious, as specified in this section, and at the appeals board's discretion, the owner may retain the animal upon satisfying the following conditions. The owner must erect, within 30 days of declaration of dangerous or vicious status by an Animal Control Officer or law enforcement officer, or in the event of an appeal, within 15 days from the decision of the appeals board a proper structure and display warning signs. This structure must be inspected and approved by a code enforcement official, designated Animal Control Officer or installed by a qualified professional as meeting the following requirements and standards (Note: with appropriate findings, the appeals panel may require alternative method(s) of enforcement of equal to or more restrictive than the requirements such forth below.)

(1) The structure must be a minimum size of 15 feet by six feet by six feet with a floor consisting of a concrete pad at least four inches thick. If more than one animal is to be kept in the enclosure, the floor area must provide at least 45 square feet for each animal. The walls and roof of the structure must be constructed of welded chain link of a minimum thickness of 12 gauge, supported by galvanized steel poles at least two and one-half inches in diameter. The vertical support poles must be sunk in concrete-filled holes at least 18 inches deep and at

least eight inches in diameter. The chainlink fencing must be anchored to the concrete pad with galvanized steel anchors placed at intervals of no more than 12 inches along the perimeter of the pad. The entire structure must be freestanding and not be attached or anchored to any existing fence, building or structure. The structure must be secured by a child-resistant lock.

(2) A warning sign of at least 120 square inches must be visible from each exposure of the structure which is visible to any adjoining property. Each sign must have a graphic representation of an appropriate animal such that the dangerousness or viciousness of the animal is communicated to those who cannot read, including young children.

(3) The owner of the animal will be responsible for ensuring that the enclosure is maintained in such a condition as to meet the requirements of this chapter. Failure to maintain or repair the enclosure shall subject the owner to penalty under this chapter.

(4) Prior to inspection of the enclosure by the appropriate personnel as described in division (E) above, the owner shall pay the current fee for the inspection of an accessory building. The animal shall not be returned to the owner's property until such time as this shelter-enclosure and warning signs have been approved. While this structure is being erected, the animal must be boarded at the county's Animal Shelter at the owner's expense. A deposit may be required by the owner equal to the estimated costs, including veterinary care for ten days' boarding. Failure to pay said deposit when required shall be deemed a waiver of all rights regarding the animal.

(F) *Confinement, muzzling and control of vicious animals.*

(1) It shall be unlawful for any owner or person to keep any vicious animal within the county unless it is confined within a secure building or enclosure or unless it is securely muzzled and under restraint by a competent adult who, by means of a leash, chain or rope, has such animal firmly under physical restraint at all times.

(2) Failure to comply will result in a civil penalty and/or forfeiture of the animal in accordance with division (B)(1) above.

(G) *Owners of animals deemed dangerous or vicious.* Owner(s) of an animal declared to be dangerous or vicious must immediately notify the county's Animal Control, in writing, of any change of address or transfer of ownership of animal(s).

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.13 ANIMAL FIGHTING AND BAITING PROHIBITED.

(A) *Causing, instigating or permitting.* No person shall bait, cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between an animal and a human.

(B) *Facilities and equipment.* It shall be unlawful for any person to maintain, own or possess facilities or equipment for the purpose of training an animal, including a cock, with the intent that the animal be used in fighting or baiting of that animal or any other animal. Treadmills, log pulls, break sticks, hanging devices or cockspurs, or other equipment possessed with the intent to violate this chapter, shall be contraband and such material shall be seized whenever found and shall be destroyed upon conviction of the possessor or owner under this chapter. This chapter does not prohibit the possession of facilities or equipment for the training

of animals by kennels or animal obedience schools if such kennels or schools are registered with the state's Department of Agriculture.

(C) *Transportation.* It shall be unlawful for any person to transport an animal, including a cock, with the intent that the animal be used in fighting or baiting of that animal or any other animal.

(D) *Transfer.* It shall be unlawful for any person to buy, sell, give, transfer or deliver an animal to another with the intent that the animal be used in fighting or baiting of that animal or any other animal.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.14 MISTREATMENT OF ANIMALS PROHIBITED.

It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water, necessary medical attention, adequate shelter, protection from the weather or humanely clean conditions.

(A) *Adequate food and water.* No person owning or responsible for any animal may fail to supply the animal with sufficient supply of food and water as prescribed in this section.

(1) *Adequate food.* The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a receptacle, dish or container that is physically clean.

(2) *Adequate water.* A constant access to a supply of clean, fresh water provided in a sanitary manner.

(B) *Necessary medical attention.* No person owning or responsible for any animal shall fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof.

(C) *Proper shelter, protection from the weather and humanely clean conditions.* No person owning or responsible for any animal shall fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section.

(1) *Indoor standards.* Minimum indoor standards of shelter shall be as follows.

(a) The ambient temperature shall be compatible with the health of the animal.

(b) Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

(2) *Outdoor standards.* Minimum outdoor standards of shelter shall be as follows.

(a) When sunlight is likely to cause heat exhaustion of an animal tied or confined outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight.

(b) Shelter shall be as follows.

1. An adequate artificial shelter with a minimum of three sides, floor and a waterproof roof appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

2. If a dog is tied or confined unattended outdoors under harsh weather conditions which adversely affect the health of the dog, a shelter of suitable size with a floor above ground and water- proof roof shall be provided to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 30 minutes.

(3) *When confinement prohibited.* No animal may be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

(4) *Standards for chaining.* No animal may be chained outdoors unattended without a chain/cable designed and placed to prevent choking or strangulation. Such chain/cable or restraint shall not be less than ten feet in length with the area free of obstacles so that the animal may have access to his or her food, water and shelter.

(5) *Space standards.* Minimum space requirements for both indoor and outdoor enclosures shall include the following.

(a) The housing facility shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

(b) Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

(6) *Humanely clean conditions.* Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleaning to remove excretions and other waste materials, dirt and trash to minimize health hazards.

(D) *Properly fitted collars required.* An owner or keeper of a dog or cat shall not permit injury to or infliction of pain upon such animal from an improperly fitting or embedded collar.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.15 CRUEL TREATMENT PROHIBITED.

(A) *Molestation, torture and the like prohibited.* It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat or treat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal or to cause or procure such action, The words ***TORTURE*** and ***TORMENT*** and the term ***CRUELLY BEAT OR TREAT*** shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit an Animal Control Officer, his or her agents or veterinarians from euthanizing dangerous, unwanted or injured animals in a humane manner.

(B) *Luring, enticing, seizing, molesting or teasing an animal.* It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on the property of its owner or keeper; but such actions of luring,

enticing and seizing shall not be construed to prohibit lawful taking of animals under the jurisdiction and regulations of this chapter by duly authorized Animal Control Officers.

(C) *Abandonment.* It shall be unlawful for any owner or person responsible for any animal to drop or leave such animal on a street, road, highway or in a public place or on private property with intent to abandon without provision for its continuous care, sustenance and shelter. No owner of an animal shall abandon such animal, except to relinquish the animal to the Animal Shelter. If Animal Control finds that an animal has been abandoned, the animal may be impounded. If the animal has been abandoned in a house or within a fenced area, Animal Control must make a reasonable effort to locate the owner or manager of the property. If the property owner or manager is not the animal owner, then Animal Control shall secure permission to remove the animal. If the property owner is also the animal owner and this individual cannot be located, Animal Control shall secure an appropriate warrant to seize the animal. An animal seized pursuant to this section shall be impounded for a period of at least 72 hours. If the owner contacts Animal Control to reclaim the animal, an explanation for the animal's abandonment must be provided to the satisfaction of the Animal Control Supervisor before the animal is reclaimed by the owner. If the animal is unclaimed by its owner after being held as long as practicable, the animal shall be placed in adoption or humanely euthanized.

(D) *Performing animal exhibitions.* No person may sponsor, promote or train a wild or domestic animal to participate in unnatural behavior in which the animal is wrestled, fought, harassed or displayed in such a way that the animal is abused or stressed. This prohibition applies to events and activities taking place in either public or private facilities or property and applies regardless of the purpose of the event or activities and whether or not a fee is charged to spectators.

(E) *Baby animals, novelties and fowl.*

(1) It shall be unlawful for any person to sell or offer for sale, barter or give away baby chickens, baby ducklings or fowl under six weeks of age as pets, toys, premiums or novelties; provided, however, that, this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings or other fowl or such rabbits in proper facilities with adequate food, water and shelter by breeders or stores engaged in the business of selling the animals for the purposes other than pets or novelties.

(2) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or fowl or rabbits.

(3) No person shall give away any live animal, fish, reptile or bird as a prize for, or as an inducement to enter any contest, game or other competition, or as an inducement to enter a place of amusement, or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade, or sell chances, coupons or tickets to be redeemed for any live animal, bird or fish.

(4) It shall be unlawful for any person to tether any fowl.

(F) *Transport of animals.* It shall be unlawful for any person to transport an animal in the trunk of a vehicle, or closed compartment on a vehicle or trailer, or in a truck or the back of a truck in such a way as to cause pain, suffering or possible pain or death to the animal. Nothing in this division (F) shall be deemed to prohibit the humane transportation of horses, cattle, sheep, poultry or other livestock in trailers or other vehicles designed, constructed and adequate for the size and number of animals being transported.

(G) *Confinement of animals in motor vehicle.*

(1) No person may place or confine an animal or allow an animal to be placed or confined in a motor vehicle under such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or water and such other conditions as may reasonably be expected to cause suffering, disability or death.

(2) After making a reasonable effort to find the driver of a vehicle in which an animal is confined, an employee of the Animal Control Division may use the least intrusive means to break and enter the vehicle if necessary to remove the animal where reasonable cause exists to believe that the animal is in the vehicle in violation of this division (G).

(3) The Animal Control Officer removing the animal shall then impound it and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment, a brief description of the animal and where and when the animal may be reclaimed. The officer may also issue a citation for violation of this division (G).

(H) *Intentionally striking animals with motor vehicles.* It shall be unlawful for any person to intentionally strike an animal with an automobile or other vehicle causing injury or death.

(I) *Tethering.* It shall be unlawful for any person to restrain a dog using a chain, wire or other type of tethering device in a manner prohibited by this division (I).

(1) No person shall tether, fasten, chain tie or restrain a dog, or cause such restraining of a dog, to a tree fence, post, dog house or other stationary object. During periods of tethering that are not unlawful under this division (I), any tethering device used shall be at least ten feet in length and attached in such a manner as to prevent strangulation or other injury to the dog or entanglement with objects.

(2) No person shall tether, fasten, chain, tie or restrain a dog, or cause such restraining of a dog, to a cable trolley system, that allows movement of the restraining devise. During periods of tethering that are not unlawful under this division (I), the length of the cable along which the tethering device can move must be at least ten feet, and the tethering device must be of such length that the dog is able to move ten feet away from the cable perpendicularly and attached in such a manner as to prevent strangulation or other injury to the dog and entanglement with objects. During periods of lawful tethering under this division (I), tethers must be made of rope, twine, cord or similar material with a swivel on one end or must be made of a chain that is at least ten feet in length with swivels on both ends and which does not exceed 10% of the dog's body weight. All collars or harnesses used for the purpose of the lawful tethering of a dog must be made of nylon or leather.

(3) No person shall tether a dog with a chain or wire or other device to, or cause such attachment to, any collar other than a buckle type collar or body harness.

(4) No person shall tether with a chain or a wire or other device to, or cause such attachment to, a head harness, choke-type collar or pronged collar to a dog.

(5) No person shall tether with a chain, wire or other device to a dog where the weight of the tethering device and the collar combined exceeds 10% of the dog's body weight.

(6) No person shall tether with a chain or wire or other device a dog in such a manner that does not allow the dog access to adequate food, water and shelter.

(7) No person shall tether a sick, diseased and/or injured dog, or puppy (a dog that is one year of age or younger).

(8) Notwithstanding the provisions of divisions (A) and (B) above, a person may, subject to the provisions of divisions (C) through (H) above, and subject to the requirement

that any stationary tethering device used, shall be at least ten feet in length and subject to the requirement that for any cable trolley system used the length of the cable along which the tethering device can move must be at least ten feet, and the tethering device must be of such length that the dog is able to move then feet away from the cable perpendicularly, may:

(a) Tether and restrain a dog while actively engaged in:

1. Usage of the dog in shepherding or herding livestock;

2. Use of the dog in the business of cultivating agricultural products, of the restraining is reasonably necessary for the safety of the dog;

3. Use of the dog in a lawful hunting activities if the restraint is reasonably necessary for the safety of the dog;

4. Use of the dog at a dog training or performance events, including, but not limited to, the field trials and obedience trials where tethering does not occur for a period exceeding seven consecutive days;

5. Camping or other recreation where tethering is required by the camping or recreational area where the dog is located; or

6. Any activity where a tethered dog is in visual range of its owner or keeper and the owner or keeper is located outside with the dog.

(b) After taking possession of a dog that appears to be a stray dog and after having advised Animal Control authorities of the capture of dog, tether and restrain the dog in accordance with the provisions for a period not to exceed seven days as the person having taken possession of the dog is seeking the identity of the dog; and

(c) Walk a dog with a handheld leash.

(J) *Inspection of pet stores/dealer facilities.*

(1) Animal Control Officers shall have the authority to conduct inspections of pet stores, to the extent not pre-empted by state law, in order to determine if there is abuse of animals. Abuse of animals shall include any act described in this section or any other act which is detrimental to the well-being of the animal.

(2) It shall be unlawful for any pet store employee or pet store owner to violate this section.

(K) *Authority to use force against animals.* Nothing in this section shall prohibit use of force against an animal which is in the act of attacking a human or a domestic animal.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.16 NOTICE IN CASE OF INJURY.

It shall be unlawful for any person who causes injury to an animal (including livestock) including, but not limited to, running over or hitting a domesticated animal with any vehicle, to fail to notify immediately at least one of the following: the owner(s) or keeper(s) of the animal (if known or ascertainable with reasonable efforts made to locate the owner or keeper), an Animal Control Officer, the appropriate police or sheriff's department or the Animal Shelter.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.17 DESTRUCTION OF ANIMALS THAT CANNOT BE SEIZED BY REASONABLE MEANS.

Notwithstanding any other provision of this chapter, an animal that cannot be seized by reasonable and normal means, retrieved by an Animal Control Officer, trapped in a humane, live-capture animal trap provided by Animal Control or tranquilized by Animal Control Division personnel may be humanely destroyed in the field upon the authorization of the Animal Control Division Director or his or her designee; provided, a vicious animal, a dangerous animal so designated by the Public Health Director or an animal attacking a human being, another pet or livestock may be immediately destroyed if, in the opinion of the Animal Control Supervisor or Animal Control Officer, such destruction is necessary for the protection of the public health and safety.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.18 SETTING HUMANE ANIMAL TRAPS AND AUTHORITY TO RECEIVE TRAPPED ANIMALS.

Animal Control is authorized to place, upon request, live-capture animal traps on private or public property to trap and remove stray, at large, unwanted or nuisance animals, including cats. It is unlawful for any person other than an Animal Control Officer or his or her designee to remove any animal from the trap or to damage, destroy, move or tamper with the trap. Animal Control is authorized to receive and impound animals that are trapped by other agencies or persons.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.19 IMPOUNDMENT.

(A) *Generally.* Any animal found being mistreated or kept under unsanitary or inhumane conditions, as provided in § 90.11 of this chapter; any animal found to be cruelly treated, as provided in § 90.12 of this chapter; any animal found to be a public nuisance, as provided in § 90.08 of this chapter; any dog found running at large or not under restraint in violation of § 90.07 of this chapter; or any animal which appears to be lost, strayed or unwanted, or any dog or cat is found to be not wearing a currently valid rabies vaccination tag, as required by state law, shall be seized, impounded and confined by the Animal Control Officer and confined in the Animal Shelter in a humane manner. Impoundment of such animal shall not relieve the owner thereof of any penalty which may be imposed for violation of any provision of this chapter.

(B) *Notice to owner.* Immediately upon impounding an animal, the Animal Control Officer shall make reasonable effort to notify the owner and inform such owner of the conditions whereby the animal may be redeemed.

(C) *Redemption by owner generally.* The owner of an animal impounded under this chapter may redeem the animal and regain possession thereof in accordance with the rules and

fees set by the Board of County Commissioners in the policies for operation of the county's Animal Shelter and by complying with all applicable provisions of this chapter and by paying all fees and penalties due. Fee rates shall be available for public inspection in the office of the Clerk to the Board of County Commissioners and at the county's Animal Shelter. The owner shall also be responsible for any additional costs associated with the seizure and sheltering of the animal. All fees must be paid prior to redemption. Failure to pay shall constitute waiver of all rights regarding the animal.

(D) *Adoption or euthanasia of unredeemed animal.*

(1) If any impounded animal is not redeemed by the owner within the period prescribed in the policies for operation of the county's Animal Shelter, filed as stated in division (C) above, then such animal may be offered for adoption or destroyed in a humane manner in accordance with such policies.

(2) No animal owner may be permitted to claim his or her own animal under the provisions of this section unless and until he or she shall comply with the provisions of the policies for operation of the county's Animal Shelter for same.

(3) All unsterilized dogs and cats adopted from the county's Animal Shelter shall be either spayed or neutered in accordance with the policies for operation of the county's Animal Shelter. Written veterinary proof of the sterilization shall be promptly provided by the adopter to the Animal Control Division. The adoption of any dog or cat not sterilized pursuant to this section shall be deemed incomplete and the dog or cat must be returned by the applicant for adoption to the county's Animal Shelter. If such dog or cat is not returned to the Animal Shelter, an Animal Control Officer may be dispatched to retrieve the dog or cat. The Animal Control Supervisor is authorized to obtain a copy of the adoption agreement from the county's Animal Shelter in order to implement the provisions of this section. If the person adopting the unsterilized animal fails to cause the animal to be sterilized within the prescribed by the Animal Shelter or veterinarian, such failure shall constitute a violation of this chapter and shall subject said person to a civil penalty in the amount of $200.

(E) *Suspected rabid dogs or cats not to be redeemed or adopted.* Notwithstanding any other provision of this chapter, dogs or cats impounded which appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with in accordance with G.S. Ch. 130A.

(F) *Deposit.* The county may require a deposit from the owner in an amount equal to the estimated costs (including seizure, shelter and veterinary care) for ten days, as determined by the county in its discretion. Failure to pay said deposit shall be deemed a waiver to any right of redemption. Upon redemption, the county will repay any unexpended portion of the deposit. (Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.20 PROCEDURE WITH RESPECT TO REDEMPTION OF UNVACCINATED ANIMAL.

(A) Unless proof of a current rabies vaccination can be furnished, every person who redeems a dog or cat at the Animal Shelter must obtain and submit the fee for a rabies voucher at the time of redemption. This voucher will be presented with a date stating the maximum time limit allowed to take the dog or cat to the veterinarian of such person's choice for rabies vaccination.

(B) The rabies voucher will be completed and returned to the Animal Shelter by the veterinarian. If the voucher is not returned to the Animal Shelter within the specified time limit, an Animal Control Officer may be dispatched to retrieve the dog or cat if corrective action has not been taken by the animal's owner.

(C) Payment for the rabies vaccination provided for this section will be the responsibility of the person redeeming the dog or cat.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.21 HUMANE EUTHANASIA OF WOUNDED OR DISEASED ANIMALS.

Notwithstanding any other provision of this chapter, any animal impounded which is badly wounded or diseased (not rabies suspect) and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, the Animal Shelter shall attempt expeditiously to notify the owner or keeper before euthanizing such animal; but, if the owner cannot be reached readily and the animal is suffering, the Animal Shelter Director or his or her designee may cause the animal to be euthanized at his or her discretion in a humane manner. The Animal Shelter and Animal Control Division shall have no liability for euthanizing wounded or diseased animals.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.22 HANDLING OF STRAY ANIMALS BY THE PUBLIC.

It shall be unlawful for any person, without the consent of the owner or keeper, knowingly and intentionally to harbor, keep in possession by confinement or otherwise any animal that does not belong to him or her. Any person in possession of a stray animal shall contact the Animal Control Division or Animal Shelter within 72 hours to arrange for impoundment or to provide notification of the stray animal's description and location.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.23 SECURITY DOGS.

(A) *General.* The owner of a security dog shall comply with the following requirements prior to using the dog as a security dog.

(1) *Identification.* It shall be unlawful for any owner of a security dog to fail to provide said dog with a current rabies tag and a security dog identification tag. A security dog's owner must provide proof of current rabies vaccination of the dog prior to being issued a security dog ID tag.

(2) *Registration.* It shall be unlawful for any owner and keeper of a security dog to use said dog as a security dog in the county without first having registered the dog with the Animal Control Division and having obtained a current rabies tag and security dog ID tag.

(3) *Signs.* The owner or keeper of any security dog and the owner of any premises using a security dog must conspicuously post on the premises in plain view of the public a sign that identifies the name, address and telephone number of the owner of the security dog.

(4) *Physical control.* The owner and user of a security dog must ensure that an adequate physical control of the security dog is provided during operational hours to prevent the security dog from coming in contact with the general public on the premises. If a security dog escapes and while either off or on the premises of his or her owner bites someone other than a trespasser, the Animal Control Supervisor shall have the authority to prohibit dog from serving as a security dog within the jurisdiction. It shall be unlawful for any owner or keeper to use a dog as a security dog after the Animal Control Supervisor has entered a prohibition regarding that particular dog.

(B) *Enforcement.*

(1) lf the Animal Control Division seizes a security dog running at large, the dog shall not be returned to its owner until the owner has registered that dog and all other dogs of that owner used as security dogs within the jurisdiction and has demonstrated to the Animal Control Division that appropriate corrections have been made to prevent said animals from escaping again.

(2) The Animal Control Division has the authority to seize security dogs and issue citations for non-compliance with this section.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.24 RELATION TO HUNTING LAWS.

Nothing in this chapter is intended to be in conflict with the laws of the state regulating, restricting, authorizing or otherwise affecting dogs while used in hunting, but this exception applies while the dogs are under the control of the owner, keeper, or competent person and are actually lawfully being used for hunting or training in compliance with applicable statutes, regulations or ordinances. This chapter should be read and enforced consistent with any such law.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.25 WILD ANIMALS.

(A) No person shall keep or permit to be kept on his or her premises any dangerous wild animal.

(B) This section shall not be construed to apply to zoological parks, performing animal exhibitions or circuses.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.26 EXOTIC ANIMALS.

(A) It shall be unlawful for any person to own or shelter any exotic animal without a permit from the county.

(B) The permit shall identify the species and may include restrictions on care and sheltering of the animal.

(C) The county may charge a fee for the permit; said fee to be included in the schedule of fees published by the county.

(D) Any exotic animal deemed to be a dangerous wild animal within the meaning of § 90.25 of this chapter shall not be permitted.

(E) Zoos, authorized habitats or animal refuge centers are exempt from the provisions of this section.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.27 SEVERABILITY.

If any part of this chapter shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

RABIES CONTROL

§ 90.40 COMPLIANCE WITH STATE RABIES LAWS; CHAPTER SUPPLEMENTAL TO STATE RABIES LAWS.

(A) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(B) It is the purpose of this chapter to supplement the state laws by providing procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.41 VACCINATION OF DOGS, CATS AND OTHER PETS.

(A) It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies for any dog or cat four months of age or older. Should it be deemed necessary by the Public Health Director or the Board of County Commissioners that other pets be vaccinated

in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies for that pet.

(B) A rabies vaccination shall be deemed "current" for a dog or cat if the initial vaccination has been administered to the animal by a licensed veterinarian within the preceding 12 months, and if any subsequent vaccination has been administered to the animal by a licensed veterinarian within the preceding 36 months.

(C) All rabies vaccines shall be administered by a licensed veterinarian or a certified rabies vaccinator who may be appointed by the Health Director.

(D) The owner of a dog or cat not having a current rabies vaccination shall be subject to a civil penalty as set out in the fee schedule if such owner does not produce a valid and current rabies vaccination tag or form within 72 hours of the demand for same by any Animal Control or law enforcement officer. Failure to produce the tag or form under this division (D) is a separate offense for each animal owned by such owner.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.42 VACCINATION TAG AND CERTIFICATE.

(A) *Issuance of tag.* Upon complying with the provisions of § 90.41 of this chapter, there shall be issued to the owner or keeper of the dog or cat vaccinated a rabies tag, stamped with a number and the year for which issued, and a rabies vaccination certificate.

(B) *Provision and wearing of collar or harness.* It shall be unlawful for any dog or cat owner or keeper to fail to provide the dog or cat with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times, except during the time the dog is performing at shows, obedience trials, tracking tests, field trials, training schools or other events sanctioned and supervised by a recognized organization.

(C) *Ear tag for cats.* In substitution for division (B) above, an owner or keeper of a cat may obtain an ear tag for rabies identification.

(D) *Impoundment for not wearing tag.* In addition to all other penalties as prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this chapter if the dog is found not to be wearing a currently valid rabies tag or the owner of the cat cannot produce sufficient written evidence to prove it has a current rabies vaccine.

(E) *Use of another's tag prohibited.* It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other that the one using the tag.

(F) *Confinement and vaccination of dogs and cats; certificate from licensed veterinarian.* All dogs or cats shipped or otherwise brought into the county, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be securely confined and vaccinated within one week after entry and shall remain confined for two additional weeks after vaccination. The above provisions of this division (F) shall not apply to dogs or cats accompanied by a current certificate issued by a licensed veterinarian showing that such dog or cat is apparently free from rabies and has not been exposed to same. A local rabies tag and certification shall be issued from a licensed veterinarian within two weeks after such entry.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.43 REPORT AND CONFINEMENT OF ANIMALS BITING PERSONS OR SHOWING SYMPTOMS OF RABIES.

(A) *Quarantine.* Every animal which has bitten any person or which shows symptoms of rabies shall be confined immediately and shall be promptly reported to the Animal Control Division and, thereupon, shall be securely quarantined at the direction of the Animal Control Division for ten days commencing from the time of the bite. Every animal quarantined under this section shall be confined at the expense of its owner in an in-county veterinary hospital or an out-of-county veterinary hospital if approved by the Health Director or his or her designee.

(B) *Authority to seize animals for non- compliance.* If the owner or the person who controls or possesses the dog or cat refuses to confine the animal as required by this section, the Health Director may order seizure of the animal and its confinement for ten days in such place as the Health Director designates at the expense of the owner.

(C) *Release upon permission of Health Director.* Animals confined in this section shall not be released from confinement, except by permission from the Health Director or the veterinarian consultant.

(D) *Disposition of animal other them dog or cat.* The disposition of an animal other than a dog or cat that bites a person shall be at the discretion of the Health Director in consultation with the veterinarian consultant.

(E) *Quarantine of stray animals.* In the case of stray animals whose ownership is not known, the supervised quarantine required by this section shall be at the county's Animal Shelter.

(F) *Authority to euthanize unclaimed animals.* If any animal is unclaimed after the ten-day confinement, then the county's Animal Shelter Director, in consultation with the veterinarian consultant, may humanely euthanize the animal unless the Director receives instructions of a different nature from the Health Director.

(G) *Release from quarantine.* If rabies does not develop with the ten-day quarantine period under this section, the animal may be released from quarantine to its owner with written permission from the Animal Shelter Director or the veterinarian consultant. If the animal has been confined in the county's Animal Shelter, upon reclaiming the animal, the owner shall pay the fee established by resolution of the Board of County Commissioners for each day of confinement to defray the cost of sheltering the animal.

(H) *Report of bites.* Law enforcement agencies investigating animal bites shall report such bites immediately to the Health Director or person designated by the Health Director and give the names and addresses of persons bitten and owner of the animal.

(I) *Euthanization of wounded, diseased or suffering animals.* Badly wounded, diseased or suffering animals which are suspected of having rabies may be humanely euthanized immediately and the head forwarded for examination.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.44 DESTRUCTION OR CONFINEMENT OF ANIMAL BITTEN BY A KNOWN RABID ANIMAL.

Animals not vaccinated against rabies which are bitten by a known rabid animal shall be immediately destroyed, unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of six months at the owner's or keeper's expense. If the animal has a current rabies vaccination, it shall be revaccinated and confined for a period of six weeks and then returned to the owner or keeper.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.45 AREA-WIDE EMERGENCY QUARANTINE.

(A) When reports indicate a positive diagnosis of rabies in an animal found within the county or an adjacent county, the Health Director may order an area-wide quarantine for such period as he or she deems necessary. Upon invoking of such emergency quarantine, no dog or cat may be taken or shipped from the county without written permission of the county's Public Health Director. During such quarantine, the Health Director, law enforcement officers, Animal Control Officers or persons duly authorized by the Health Director may seize and impound any dog or cat found running at large in the county. During the quarantine period, the Health Director shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county.

(B) In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the Health Director.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.46 POSTMORTEM DIAGNOSIS.

(A) If an animal dies while under observation for rabies, the head of such animal shall be submitted to the Health Department for shipment to the State Laboratory of Hygiene for diagnosis.

(B) The carcass of any dead animal exposed to rabies shall be surrendered to the Animal Control Department. The head of such animal shall be submitted to the Health Department for shipment to the State Laboratory of Hygiene for diagnosis.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

§ 90.47 UNLAWFUL KILLING, RELEASING AND THE LIKE OF CERTAIN ANIMALS.

It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies, or any animal biting a human, or to remove such animal from the county without written permission from the Animal Control Division or the Health Director.

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.48 FAILURE TO SURRENDER AN ANIMAL FOR QUARANTINE OR EUTHANASIA.

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or euthanasia as required in this chapter when demand is made therefore by the Animal Control Division.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

BREEDER/LITTER PERMITS

§ 90.60 BREEDER PERMIT/FEE.

(A) *Permit/payment of fee required; proof of rabies vaccination; penalty for failure to obtain permit or pay fee.*

(1) Breeders or other person(s) with the intention of breeding their domesticated (non-farm) animals must obtain a permit from the county's Animal Shelter. The breeder shall pay a fee of $10 for each litter produced. Before a permit is obtained, the breeder/owner must show proof of rabies vaccination for each animal intended for breeding. A person whose animal has produced a litter without having previously obtained a permit for that litter shall have ten days from the day the litter is produced in which to obtain a permit.

(2) Persons who fail to obtain a permit or fail to pay the required fees will be subject to a civil penalty as set out in the fee schedule. The person otherwise liable for the civil penalty shall be exempt from the civil penalty if such person causes the animal which produced the litter to be spayed within ten days of being cited for such penalty.

(B) *Effective date; inclusion of permit number in advertisements by domesticated animal transporters.*

(1) This section shall be in effect until 12-31-1996, and shall no longer be effective after that date unless re-enacted by the county's Board of Commissioners prior to that date.

(2) Persons who advertise for the transfer of domesticated (non-farm) animals (with or without charge) shall include their permit number on the advertisement. Fees and penalties will be paid to the county's Animal Shelter.
(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014) Penalty, see § 90.99

§ 90.99 PENALTY.

The following penalties shall pertain to violations of this chapter.

(A) The violation of any provision of this chapter shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in G.S. § 14-4 or other applicable law. Each day's violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this division (A) does not relieve a person of his or her liability for taxes or of fees imposed under this chapter.

(B) Enforcement of this chapter may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. § 153A-123(d) and (e).

(C) Issuance of a citation for a violation of "restraint of animals" is directed toward and against the owner and/or possessor of an animal. The purpose of the issuance of a citation is to effect the conduct of the owner of an animal by seeking to have an owner responsibly maintain sufficient restraint and confinement of his or her animal. Therefore, an owner of an animal shall be subject to escalating penalties for each violation of the section entitled allowed by the owner, whether the animal is the same animal, a different animal or various animals belonging to the owner.

(D) In addition to and independent of any criminal penalties and other sanctions provided in this chapter, a violation of this chapter may also subject the offender to the civil penalties hereinafter set forth in the schedule of fees attached hereto. The fees and civil penalties set out herein may be modified by the county.

(1) (a) The Animal Control Supervisor, or designee, may issue to the known owner or keeper of any animal, or to any other violator of the provisions of this chapter, a citation giving notice of the alleged violations(s). Citations so issued may be delivered in person or mailed by certified or registered mail to the person charged if that person cannot readily be found. This civil penalty shall be paid in full to the Animal Control Supervisor or his or her designee within 30 days of receipt of the citation assessing the civil penalty. This civil penalty is in addition to any other fees or costs authorized by this chapter. Failure to appeal any penalty within the designated time shall constitute a waiver of all rights of appeal.

(b) For violations of § 90.10(B)(2) of this chapter, security personnel for the county are expressly authorized to issue citations for violations of the above referenced section occurring on county property.

(2) In the event that the owner or keeper of an animal or other alleged violator does not appear in response to the above-described ticket or citation, or the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty, and/or a criminal summons may be issued against the owner or keeper or other alleged violator of this chapter and, upon conviction, the owner shall be punished as provided by state law. The Animal Control Supervisor, or designee, is expressly authorized to collect the fees or penalties as a debt. Failure to appeal an action within the stated deadline shall constitute a waiver of any rights of appeal.

(3) The following civil penalties are hereby established for the indicated violations of this chapter:

Animal Control Civil Penalty Fee Schedule		
Section	***Violation Description***	***Fee***
90.04	Regulation of high volume breeders and retailers	
	Failure to obtain permit	$500

Animal Control Civil Penalty Fee Schedule		
Section	***Violation Description***	***Fee***
	Violation of permit standard	$200
90.05	Violation of additional requirements for dog breeders and dog retailers who are maintaining facilities in violation...Failure to obtain breeder/kennel permit	
	First violation	$200
	Second violation	$500
90.06(A)	Interference of duty of any Animal Control Division employee or agent or trap	$100
90.06(B)	Concealment of animal for the purpose of evading chapter	$100
90.08	Bird sanctuaries...Failure to obtain license (note: penalty waived upon payment and registration of license)	$100
90.09	Animals running at large	
	Failure to obtain license (note: penalty waived upon payment and registration of license)	$100
	First violation	$100
	Second violation	$300
	Third and subsequent violations	$500
90.10	Public nuisance	
	First violation	$100
	Second violation	$300
	Third and subsequent violations	$500
Animal Control Civil Penalty Fee Schedule		
90.11	Failure to confine and control	
	First violation	$100
	Second violation	$300
	Third and subsequent violations	$500
90.12	Vicious animals	$500
90.13	Animal fighting and baiting	$500
90.14	Mistreatment of animals	
	First violation	$100
	Second violation	$300
	Third and subsequent violations	$500
90.16	Injury of animal...Notice required	
	First violation	$250
90.19	Failure to sterilize adopted animal	$500
90.22	Keeping stray animal...Injury of animal...Notice required	$100

Animal Control Civil Penalty Fee Schedule		
Section	***Violation Description***	***Fee***
90.23	Security dog identification requirements	$50
90.25	Keeping wild animals without permit	$100
90.42	Rabies vaccination tag and certificate	$100
90.43	Rabies confinement for observation	$200
90.47	Release of suspected rabid animal	$200
90.60	Failure to obtain breeding permit	
	First violation	$100
	Second violation	$150
	Third violation	$200

(Ord. passed 5-15-1990; Ord. passed 10-21-2010; Ord. 2011-2-1, passed 2-15-2011; Ord. passed 1-21-2014)

CHAPTER 91: FIRE PREVENTION

Section

General Provisions

91.01 Fire limits

Burning

91.15 Prohibition
91.16 Exception
91.17 Conditions
91.18 Permit

91.99 Penalty

GENERAL PROVISIONS

§ 91.01 FIRE LIMITS.

Pursuant to G.S. § 160A-435 and the Charter of the town, fire limits for the town are hereby established as the corporate limits of the town which shall include the principal business portions of the town and shall be known as primary fire limits hereby established as follows: beginning at the northwest corner of the intersection of U.S. Highway 29 and 70 and Gannaway; thence in a northern direction along the west side of U.S. Highway 29 and 70, 81.5 feet to a

point, thence in a westerly direction, 721.58 feet to the east side of Ragsdale Road; thence in a southern direction along the east side of Ragsdale Road, 224.52 feet to a point; thence in an eastern direction, 720.51 feet to the west side of U.S. Highway 29 and 70; thence in a northern direction along the west side of Highway 29 and 70, 145.56 feet to the point of beginning.
(Ord. 1949-10-1, passed 10-19-1949)

BURNING

§ 91.15 PROHIBITION.

The burning of leaves, brush, trash or any refuse is prohibited within the corporate limits.
(Ord. 2004-10-1, passed 10-19-2004) Penalty, see § 91.99

§ 91.16 EXCEPTION.

With permit, the burning of brush by commercial contractors clearing large open areas properly permitted by the town and in accordance with local air quality burning regulations; also, with permit, burning of bonfires and camp fires.
(Ord. 2004-10-1, passed 10-19-2004)

§ 91.17 CONDITIONS.

(A) In the event atmospheric conditions are such as to make burning the above materials hazardous, the applicant must not start the burning process; or, if burning is in process, must cease the burning operation.

(B) The following materials are not allowed to be burned: garbage; paper; cardboard; tires and other rubber products; building materials, including lumber and wood scrapes, wire, plastics and other synthetic materials; asphalt; shingles; and other products with heavy oils, paints, household or agricultural chemicals.

(C) At no time during the burning shall the applicant fail to have the fire constantly attended by a competent person until such fire extinguished. Such person shall have a garden hose connected to water supply or other approved fire extinguishing equipment readily available for use.

(D) Materials shall be burned in small piles, in a cleared area, at least 200 feet away from any structure.

(E) No materials (trees, limbs and the like) larger than six inches in diameter to be burned. Failure to comply with the above requirements will result in revocation of permit. A Fire Department representative may conduct a site visit.
(Ord. 2004-10-1, passed 10-19-2004) Penalty, see § 91.99

§ 91.18 PERMIT.

Permit cost is $25 and must accompany completed application. The permit must be available on-site at the time of burning.
(Ord. 2004-10-1, passed 10-19-2004)

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Where there is a violation of any provision of §§ 91.15 through 91.18 of this chapter, the town, at its discretion, may take the following enforcement actions.

(1) A law enforcement official may issue a citation as provided herein, subjecting the violator to a $100 civil penalty to be paid within ten days, which penalty may provide for an additional $100 delinquency charge upon non-payment, and which penalty and delinquency charge may be recovered by the town in a civil action.

(2) A misdemeanor warrant may be issued immediately or upon the issuance of a citation and the violator's refusal to pay the same. Misdemeanors shall be punishable by a fine of $50 or imprisonment not exceeding 30 days, in accordance with G.S. § 14-4.

(3) The civil penalties imposed by this division (B) and the proceeds therefrom as collected by payment, civil action or otherwise, shall belong to the town and shall be paid into the general fund of the town under such conditions as prescribed by the annual budget.

(4) Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.
(Ord. 2004-10-1, passed 10-19-2004)

CHAPTER 92: ADVERTISING MATTER

Section

92.01 Prohibition
92.02 Obscene or immoral advertising

§ 92.01 PROHIBITION.

(A) It shall be unlawful for any person to attach, place, paint, write, stamp or paste, or cause to be attached, placed painted, written, stamped or pasted any sign, advertisement or other matter upon any lamp post, electric light, railway, telephone or telegraph pole; shade tree, fire hydrant or boxes covering them; or on any bridge, pavement, portion of any sidewalk or cross walk, public building or any other property or thing belonging to the town or on any article or thing within any park.

(B) It shall also be unlawful for any person to attach, place, paint, write, stamp or paste or cause to be attached, placed, painted, written, stamped or pasted any sign, advertisement or other matter upon any house or part thereof, wall, fence, gate, post or tree box without first having obtained written permission of the owner, agents or occupants of the premises to do so.

(C) It shall be unlawful to distribute in any street or public place or from house to house, samples of medicines or drugs.

(Ord. 1948-7-1, passed 7-15-1948) Penalty, see § 10.99

Cross-reference:

Littering, see § 51.05

Solicitors, Canvassers and Peddlers, see Ch. 112

§ 92.02 OBSCENE OR IMMORAL ADVERTISING.

It shall be unlawful for anyone to post or display or cause to be posted or displayed so that the same can be seen from any waterway, street or public place, or to distribute or cause to be distributed, any immoral, offensive, improper, indecent, lascivious or obscene advertisement or notice or any delineation, cut or figure or printed or painted matter which tends to suggest anything of an immoral offensive, improper, indecent, lascivious or obscene nature.

(Ord. 1948-7-1, passed 7-15-1948) Penalty, see § 10.99

CHAPTER 93: ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES

Section

93.01 Administration
93.02 Definitions
93.03 Abandoned vehicles unlawful; removal authorized
93.04 Nuisance vehicle unlawful; removal authorized
93.05 Junked motor vehicle regulated; removal authorized
93.06 Removal of abandoned, nuisance or junked motor vehicle; pre-towing notice requirements
93.07 Exceptions to prior notice requirement
93.08 Removal of vehicles; post-towing notice requirements
93.09 Right to probable cause hearing before sale or final disposition of vehicle
93.10 Redemption of vehicle during proceedings
93.11 Sale and disposition of unclaimed vehicle
93.12 Conditions on removal of vehicles from private property
93.13 Protection against criminal or civil liability
93.14 Exceptions
93.15 Unlawful removal of impounded vehicle

§ 93.01 ADMINISTRATION.

The Sheriff Department and Town Manager, or his or her assignee of the town, shall be responsible for the administration and enforcement of this chapter. The Sheriff Department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the town, and on property owned by the town. The Town Manager or his or her assignee shall be responsible for administering the removal and disposition of "abandoned", "nuisance" or "junked" motor vehicles located on private property. The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the town's Sheriff Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.
(Ord. 1990-2-1, passed 2-20-1990)

§ 93.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. As authorized and defined in G.S. § 160A-303, a vehicle that:

(1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;

(2) Is left on a public street or highway for longer than seven days;

(3) Is left on property owned or operated by the town for longer than 24 hours; or

(4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

AUTHORIZING OFFICIAL. The supervisory employee of the Sheriff Department or the Town Manager, or his or her assignee, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

MOTOR VEHICLE or ***VEHICLE.*** All machines designed or intended to travel over land by self- propulsion or while attached to any self-propelled vehicle.

JUNKED MOTOR VEHICLE. As authorized and defined in G.S. § 160A-303.2 the term, a vehicle that does not display a current license plate lawfully upon that vehicle and that:

(1) Is partially dismantled or wrecked;

(2) Cannot be self propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than $100.

NUISANCE VEHICLE. A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance and unlawful including a vehicle found to be:

(1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;

(2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;

(3) A point of collection of pools or ponds of water;

(4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;

(5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods and the like;

(6) So situated or located that there is a danger of it falling or turning over;

(7) One which is a point of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind;

(8) One which has sharp parts, thereof which are jagged or contain sharp edges of metal or glass; or

(9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council.

(Ord. 1990-2-1, passed 2-20-1990)

§ 93.03 ABANDONED VEHICLES UNLAWFUL; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.

(B) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(Ord. 1990-2-1, passed 2-20-1990) Penalty, see § 10.99

§ 93.04 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after is has been declared a nuisance vehicle.

(B) Upon investigation, the Town Manager or his or her assignee may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, as defined above, and order the vehicle removed.

(Ord. 1990-2-1, passed 2-20-1990) Penalty, see § 10.99

§ 93.05 JUNKED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(B) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

(C) It shall be unlawful for any owner, person entitled to the possession of a junked motor vehicle, or for the owner, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the locational requirements or the concealment requirements of this section.

(D) (1) Subject to the provisions of division (E) below, upon investigation, the Town Manager or his or her assignee may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner.

(2) Such findings shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance.

(3) The following among other relevant factors may be considered:

(a) Protection of property values;

(b) Promotion of tourism and other economic development opportunities;

(c) Indirect protection of public health and safety;

(d) Preservation of the character and integrity of the community; and

(e) Promotion of the comfort, happiness and emotional stability of area residents.

(E) (1) *One junked motor vehicle.* One junked motor vehicle, in its entirety, can be located in the rear yard as defined by the town's zoning ordinance if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering. The Town Manager or his or her assignee has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate. The covering or enclosure must be compatible with the objectives stated in the preamble of this chapter.

(2) *More than one junked motor vehicle.* Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure means either a lawful, non-conforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and Building Code regulations.

(Ord. 1990-2-1, passed 2-20-1990)

Editor's note:

Division (E) is optional and should be used in conjunction with a town zoning ordinance. If you choose not to use division (E), divisions (B) and (C) should be deleted also.

§ 93.06 REMOVAL OF ABANDONED, NUISANCE OR JUNKED MOTOR VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

(A) Except as set forth in § 93.07 of this chapter, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is

located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the city on a specified date (no sooner than seven days after the notice is affixed). The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(B) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle, but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the (governing body) in writing, heard at the next regularly scheduled meeting of the (governing body), and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(Ord. 1990-2-1, passed 2-20-1990)

§ 93.07 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

(A) The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records.

(B) Circumstances justifying the removal of vehicles without prior notice includes:

(1) *Vehicles abandoned on the streets.* For vehicles left on the public streets and highways, the Town Council hereby determines that immediate removal of such vehicles may be warranted when they are:

(a) Obstructing traffic;

(b) Parked in violation of an ordinance prohibiting or restricting parking;

(c) Parked in a no-stopping or standing zone;

(d) Parked in loading zones;

(e) Parked in bus zones; or

(f) Parked in violation of temporary parking restrictions imposed under code sections.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on city-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles

parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.
(Ord. 1990-2-1, passed 2-20-1990)

§ 93.08 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

(A) Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town.

(B) (1) Whenever such a vehicle is removed, the authorizing Town Manager or his or her assignee shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

(a) The description of the removed vehicle;

(b) The location where the vehicle is stored;

(c) The violation with which the owner is charged, if any;

(d) The procedure the owner must follow to redeem the vehicle; and

(e) The procedure the owner must follow to request a probable cause hearing on the removal.

(2) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is readied by telephone, written notice, including the information set forth in divisions (B)(1)(a) through (B)(1)(e) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his or her agent.

(3) If the vehicle is registered in the state, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(C) Whenever an abandoned, nuisance or junked motor vehicle is removed and such vehicle has no valid registration or registration plates, the authorizing town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information set forth in divisions (B)(1)(a) through (B)(1)(e) above.
(Ord. 1990-2-1, passed 2-20-1990)

§ 93.09 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county's Magistrate designated by the Chief District Court Judge to receive such hearing requests. The Magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11, as amended.
(Ord. 1990-2-1, passed 2-20-1990)

Editor's note:

This chapter has been designed for those cities and towns which operate in such a way that the person who tows the vehicle is responsible for collecting towing fees. If the city or town operates in such a way that it is responsible for collecting towing fees then pursuant to G.S. §§ 160A-303 and 160A-303.2, it shall:

(a) Provide by contract or ordinance for a schedule of reasonable towing fees;

(b) Provide a procedure for a prompt fair hearing to contest the towing;

(c) Provide for an appeal to district court from that hearing;

(d) Authorize release of the vehicle at any time after towing by posting of a bond or paying the towing fees due; and

(e) Provide a sale procedure similar to that provided in G.S. §§ 44A-4, 44A-5 and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale, and if the value of the vehicle is less than the amount of the lien the city may destroy it.

§ 93.10 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

(A) At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow-truck operator or towing business having custody of the removed vehicle.

(B) Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this chapter.

(Ord. 1990-2-1, passed 2-20-1990)

§ 93.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

(A) Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the town truck operator or towing business having custody of the vehicle.

(B) Disposition of such a vehicle shall be carried out in coordination with the city and in accordance with G.S. Ch. 44A, Art. 1.

(Ord. 1990-2-1, passed 2-20-1990)

Editor's note:

This chapter has been designed for those cities and towns which operate in such a way that the person who tows the vehicle is responsible for collecting towing fees. If the city or town operates in such a, way that it is responsible for collecting towing fees then pursuant to G.S. §§ 160A-303 and 160A-303.2, it shall:

(a) Provide by contract or ordinance for a schedule of reasonable towing fees;

(b) Provide a procedure for a prompt fair hearing to contest the towing;

(c) Provide for an appeal to district court from that hearing;

(d) Authorize release of the vehicle at any time after towing by posting of a bond or paying the towing fees due; and

(e) Provide a sale procedure similar to that provided in G.S. §§ 44A-4, 44A-5 and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale, and if the value of the vehicle is less than the amount of the lien the city may destroy it.

§ 93.12 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Town Manager or his or her assignee. The town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale thereof.
(Ord. 1990-2-1, passed 2-20-1990)

§ 93.13 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this chapter.
(Ord. 1990-2-1, passed 2-20-1990)

§ 93.14 EXCEPTIONS.

Nothing in this chapter shall apply to any vehicle:

(A) Which is in a bona fide “automobile graveyard” or “junkyard”, as defined in G.S. § 136-143, in accordance with the Junkyard Control Act (G.S. §§ 136-141 et seq.);

(B) Which is in an enclosed building;

(C) Which is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or

(D) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the town.
(Ord. 1990-2-1, passed 2-20-1990)

§ 93.15 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions

of this chapter unless and until all towing and impoundment fees are due, or bond in lieu of such fees, have been paid.
(Ord. 1990-2-1, passed 2-20-1990)

CHAPTER 94: NOISE

Section

94.01 Annoying and disturbing noises generally; definitions
94.02 Actions
94.03 Exception; responsibility

94.99 Penalty

§ 94.01 ANNOYING AND DISTURBING NOISES GENERALLY; DEFINITIONS.

(A) Subject to the provisions of this chapter, it shall be unlawful for any person, persons, or business entity to make, permit, continue or cause to be made any unreasonably loud, disturbing, annoying or unnecessary noise in the incorporated areas of the town, with the exception of construction work done pursuant to a federal, state, county or city contract which requires work to be performed during certain hours.

(B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISTURBING. Noise which is perceived by a person or ordinance sensibilities as interrupting the normal peace and calm of the area.

UNNECESSARY. Any excessive or unusually loud sound or any sound which is of such character, intensity and duration as to disturb the peace and quiet of any neighborhood or which disturbs, injures or endangers the comfort, repose, health, peace or safety of any person, and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.

UNREASONABLY LOUD OR ANNOYING. Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order.

(C) In determining whether a noise is unreasonably loud, annoying, disturbing or unnecessary, the following factors incident to such noise are to be considered; time of day, proximity to residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; the character, nature and zoning of the area; whether the noise is related to the normal operation of a business or other activity or is the result of some use for individual purposes and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof. A continuing or non-resetting audible burglar or fire alarm shall not be considered a violation of this chapter.
(Ord. 2005-7-1, passed 7-19-2005) Penalty, see § 94.99

§ 94.02 ACTIONS.

The following acts are declared to be loud, disturbing, annoying and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

(A) *Blowing horns.* The sounding of any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicles or railroad train, except as a danger signal or as required by law, so as to create any unreasonably loud, disturbing or annoying sound as defined above, or the sounding of such device for an unnecessary and/or unreasonable period of time;

(B) *Radios, stereos and the like.* The playing of any radio, television set, record player, stereo or other sound reproduction system, musical instrument or sound-producing or sound-amplifying device on the premises or any dwelling, hotel or motel room in such manner or with such volume, particularly but not limited to the hours between 11:00 p.m. and 7:00 a.m. as to be an unreasonably loud, annoying, disturbing or unnecessary manner as defined above. A presumption is created that the noise is unreasonably loud, annoying, disturbing and unnecessary if the sound generated is audible at a distance of 30 feet or more from the dwelling's property line, or from the unit's most outer boundary wall in the case of a hotel or motel room;

(C) *Sound-producing equipment in vehicles.* The playing of any radio, cassette player, compact disc, videotape or disc or other similar device for reproducing sound located on or in any other vehicle on a public street, highway, within any public vehicular area, within the motor vehicular area of any public or private parking lot or park or on the premises of a private residence in an unreasonably loud, annoying, disturbing or unnecessary manner as defined above. A presumption is created that the sound thus created is unreasonable loud, annoying, disturbing and unnecessary if the sound generated or noise vibration therefrom is audible or can be felt at a distance of 30 feet or more from the radio, cassette player, compact disc, video tape or disc or other similar device that is producing the sound;

(D) *Animals.* The keeping of any animal or bird, which by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity;

(E) *Operation of vehicles.* The operation of any automobile, motorcycle or vehicles in such a manner as to create loud or unnecessary grating, grinding, rattling, screeching of tires or other noise;

(F) *Blowing whistles.* The blowing of any steam whistle attached to any steam boiler in an unreasonable loud, annoying, disturbing or unnecessary manner as defined above, except as a warning of danger;

(G) *Exhaust discharge.* The discharge into the open of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent unnecessarily loud, annoying, disturbing or unnecessary noises therefrom;

(H) *Compressed air devices.* The use of any mechanical device operated by compressed air unless unreasonably loud, annoying disturbing or unnecessary noise created thereby is effectively muffled and reduced;

(I) *Noises to attract attention.* The use of any drum, bell, loudspeaker or other instrumentality for the purpose of attracting attention by creation of noise to any performance, show, sale, display or advertisement of merchandise. The use of explosives such as fireworks may also be a violation where conducted at hours which interfere with the normal peace, calm and good order of the neighborhood or when conducted without obtaining the proper permissions, permits and the like;

(J) *Hawking, peddling or soliciting.* The shouting and crying of peddlers, hawkers, vendors, which disturb the quiet and peace of the neighborhood; and

(K) *Loudspeakers or amplifiers.* The use of any mechanical loudspeakers or other mechanically- amplified device within or from any commercial establishment or private entertainment or recreational venue is presumed to be unreasonably loud, annoying, disturbing and unnecessary if the sound played or emitted may be heard at a distance from 30 feet or more of the facility's property line, between the hours of 11:00 p.m. and 7:00 a.m.

(Ord. 2005-7-1, passed 7-19-2005) Penalty, see § 94.99

§ 94.03 EXCEPTION; RESPONSIBILITY.

(A) In the interest of public safety and convenience the following activities are exempted from the application of this chapter:

(1) Emergency work made necessary to restore property to a safe condition; emergency work required to protect persons or property from danger or potential danger; or work by private or public utilities when restoring utility services;

(2) Any street construction activity performed by, or on behalf of, a government agency on streets designated on the then current thoroughfare plan as adopted county or state; provided that all equipment is operated in accordance with the manufacturer's specifications and is equipped with all legally required noise reducing devices in proper operating condition. Blasting and pile driving on street projects are covered under this exemption only to the extent that they are carried on between the hours of 7:00 a.m. and 10:00 p.m., Monday through Saturday;

(3) Noise arising from the premises of a bona fide farm or a farming operation, as defined in G.S. § 153A-340(b)(2), as a result of routine fanning activities necessary for the operation of the farm; and

(4) Noise originating from aircraft or from any activities conducted upon property of the Piedmont Triad Airport Authority.

(B) An owner of any premises subject to this section who is not a current occupant of the premises shall be responsible and subject to civil penalties, but no criminal liability, for actions by tenants, guests or other licensees which constitute violations of this section. Absentee owners must be notified by personal service or certified mail to the first or previous violations that have occurred within the previous 12-month period before a subsequent increased civil penalty may be imposed.

(Ord. 2005-7-1, passed 7-19-2005)

§ 94.99 PENALTY.

(A) The town in its discretion may through the Sheriff or anyone designated in writing by the Town Manager take one or more of the following enforcement actions for violations of this section against any responsible person, persons or business entity as stated in § 94.01 of this chapter:

(1) Issue a written warning; and/or

(2) Issue a citation subjecting a violator to a civil penalty of $200. A second violation by the same person or business within one year of the first violation shall subject such person or business to a penalty of $400. All subsequent violations by the same person or business within one year of the first violation shall subject such person or business to a civil penalty of $500. The Town Manager or his or her designee may on request and for good cause shown adjust a civil penalty.

(B) Failure to pay a civil penalty imposed under this section within ten days shall subject the offender to an additional $50 delinquency charge. Any unpaid penalty or delinquency charge may be recovered by the town in a civil action in the nature of a debt.

(C) Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.

(D) Violators may also be prosecuted under the provision of G.S. § 14-4 for a misdemeanor criminal offense punishable by a fine of not more than $500 and/or imprisonment as designated for a Class 3 misdemeanor.

(E) This chapter may also be enforced by civil action for injunction and order of abatement.

(F) This chapter may be enforced by any remedy authorized by G.S. § 160A-175, either severally or in conjunction with other remedies.

(Ord. 2005-7-1, passed 7-19-2005)

CHAPTER 95: PUBLIC NUISANCES

Section

95.01 Conditions constituting public nuisance
95.02 Notice to abate
95.03 Service of notice
95.04 Abatement by town where owner fails to abate
95.05 Appeals
95.06 County Health Department may exercise current authority
95.07 Procedures in addition to other remedies

§ 95.01 CONDITIONS CONSTITUTING PUBLIC NUISANCE.

(A) The existence of any of the following conditions on any land within the corporate limits is hereby declared to be a detriment, dangerous and a hazard to the health, safety, morals and general welfare of the citizens of the town and are found, deemed and declared to be public nuisances wherever the same may exist and the creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

(1) Any condition which constitutes a breeding ground or harbor for rats, mice, snakes, mosquitoes, harmful insects or other pests;

(2) A place of dense growth of weeds or other noxious vegetation over 12 inches in height, except for those lands dedicated and accepted by the town as floodplain and

open space which are established in order to preserve natural greenways and/or natural connecting networks along floodways, streams and creeks;

(3) An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, floor coverings or any other combustible materials or objects of a like nature;

(4) An open place of collection of garbage, food waste, animal waste or any other rotten matter of any kind that is offensive by virtue of odors or vapors or by the inhabitance therein of rats, mice, snakes or vermin of any kind;

(5) The open storage of any furniture, appliances or metal products of any kind or nature which may or may not have jagged edges of metal, glass, or areas of potential confinement by children or other persons; and/or

(6) Any condition which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches or drains, to the extent that the premises is not free from standing water.

(B) For the purpose of enforcement of this chapter, an ***OPEN PLACE*** is defined as an area of property or portion thereof that is open, including building openings of residential dwelling units that are open to the exterior, such as attached carports, porches and any other exterior portions of properties ordinarily exposed to public view.

(Ord. 2000-7-1, passed 7-19-2000) Penalty, see § 10.99

§ 95.02 NOTICE TO ABATE.

If any person shall violate the provision of this chapter, it shall be the duty of the Town Manager or his or her designated representative to give notice to the owner or to any person in possession of the subject property, as provided by § 95.03 of this chapter, directing that all unlawful conditions existing thereupon be abated within ten days from the date of such notice; provided that, if, in the opinion of the Town Manager or his or her designated representative, the unlawful condition is such that it is of imminent danger or peril to the public, then any authorized representative may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property as is provided in § 95.04 of this chapter.

(Ord. 2000-7-1, passed 7-19-2000)

§ 95.03 SERVICE OF NOTICE.

(A) The owner of subject property, as shown on county tax records, shall be notified of violation of § 95.01 of this chapter by personal delivery of said notice or by registered or certified mail, return receipt requested. If such notice is refused or is returned unclaimed, then said property shall be posted with notice. If the name of the owner cannot be ascertained, with reasonable diligence, then the notice shall be served on any person in possession of the subject property or, if there is no person in possession of it, by posting the notice on the subject property. If any such property is owned by a corporation, the notice shall be served upon the registered agent or, in the absence thereof, notice shall be served upon the corporation.

(B) Any such notice may be served by any authorized representative of the Town Manager or by the county's Sheriff's Department.

(C) Any insubstantial defect in the method of giving the notice required by this section, or in the form thereof, shall not prevent the town, in any case where the work of abating an unlawful condition upon any property is undertaken by the town or its contractor, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the property for such cost.
(Ord. 2000-7-1, passed 7-19-2000)

§ 95.04 ABATEMENT BY TOWN WHERE OWNER FAILS TO ABATE.

(A) Upon the failure of the owner or person in possession of any premises to abate any unlawful condition existing thereupon within the time prescribed by § 95.02 of this chapter, it shall be the duty of the Public Works Director or an authorized public works representative to cause the removal and abatement of such unlawful condition therefrom.

(B) Upon the completion of such removal and abatement, the Director of Public Works or his or her designated representative shall deliver to the Finance Officer for the town a statement showing the actual cost of the abatement of the unlawful condition, plus an additional fee to cover the cost of notice and cost of collection. The Finance Officer shall, thereupon, mail to the owner of the subject property a bill covering the cost; this bill to be paid within 30 days. If this bill is not paid, the amount of the bill shall become a lien upon the subject property and if not paid within the 30 days, it shall be collected as in the same manner provided for the collection of delinquent taxes.
(Ord. 2000-7-1, passed 7-19-2000)

§ 95.05 APPEALS.

The Director of Public Works may enter upon the premises involved for the purpose of abating the nuisance found to exist under this chapter within the ten-day period mentioned in § 95.02 of this chapter, the owner of the property where the nuisance exists may appeal the findings of the Director of Public Works. An appeal stays the abatement of the nuisances by the Director of Public Works until a final determination by the Town Manager. In the event no appeal is taken, the Director of Public Works may proceed to abate the nuisance.
(Ord. 2000-7-1, passed 7-19-2000)

§ 95.06 COUNTY HEALTH DEPARTMENT MAY EXERCISE CURRENT AUTHORITY.

It is the intention of this chapter that any authorized representative of the Director of Public Works or Town Manager shall be primarily responsible for the enforcement of the provisions of this chapter, but a County Health Officer shall, in any case where it deems advisable to act, have all the authority conferred by the ordinance upon the Director of Public Works of his or her designated representative and any notice served for the purpose of this officer by, or by authority of, the county's Health Officer and any charge made by the county

office in accordance with the provision of § 95.04(B) of this chapter shall be as valid as if made by the Director of Public Works.
(Ord. 2000-7-1, passed 7-19-2000)

§ 95.07 PROCEDURES IN ADDITION TO OTHER REMEDIES.

The procedures set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this chapter shall not prevent the town from proceeding in a criminal action against any person, firm or corporation violating the provision of this chapter.
(Ord. 2000-7-1, passed 7-19-2000)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. SPECIAL EVENTS
111. ADULT-ORIENTED ESTABLISHMENTS
112. SOLICITORS, CANVASSERS AND PEDDLERS
113. NATURAL GAS; SERVICE
114. CABLE TELEVISION

CHAPTER 110: SPECIAL EVENTS

Section

110.01 Purpose, scope and intent
110.02 Special event permit required
110.03 Requirements for special event permit application
110.04 Conditions affecting the issuance of a special events permit
110.05 Denial of a special use permit
110.06 Display of special event permit
110.07 Date of special event not confirmed until permit issued; notification of abutting property owners
110.08 Use of town seal or name
110.09 Insurance required to conduct special events; hold harmless
110.10 Revocation of a special event permit
110.11 Cost recovery for special events
110.12 Authorized vendors
110.13 Strict liability offenses
110.14 Unlawful to display signs in special event venue, except as permitted
110.15 Unlawful to interfere with a permitted facility use, special event or demonstration
110.16 Cost recovery for unlawful special event
110.17 Alcohol
110.18 Sale of alcoholic beverages at permitted events on public streets
110.19 Firearms

110.99 Penalty

§ 110.01 PURPOSE, SCOPE AND INTENT.

(A) Recognizing that special events enhance the quality of life for residents and visitors alike, it is the purpose of the Town Council to establish a structured process by which permits can be issued allowing special events to be staged on town property, and in instances where such events occupy, impact or consume public resources, to enable the town to recover the costs related to such event.

(B) A special event is any organized activity conducted by a person or group for a common purpose or benefit which involves the use of, or has an impact on, public property or facilities and the town's provision of public safety services in response thereto. Examples of special events include, but are not limited to, concerts, parades, circuses, fairs, street festivals, block parties, community events, sporting competitions (such as marathons, running events, bicycle races or tours) and spectator sports (such as football, basketball, baseball games or golf tournaments).

(Ord. 2009-6-1, passed 6-29-2009)

§ 110.02 SPECIAL EVENT PERMIT REQUIRED.

(A) Except as provided in this chapter, no person, persons, organization or entity shall conduct, promote, manage, aid or solicit attendance at any event on public property or on a combination of public and private property where the event is of such magnitude as to impact public safety, traffic or the health, safety and welfare of town residents or the invitees, unless that person(s), organization or entity has obtained a special event permit from the town.

(B) The Town Manager, or designee, is authorized to determine when the use of public property requires the issuance of a special event permit, based upon an evaluation of the event's public impact, consumption of public resources, location, anticipated attendance and purpose.

(C) The Town Manager, or designee, is authorized to issue a special events permit based upon a complete application detailing the particulars of the event submitted by the person(s), organization or entity seeking to produce the event. The Town Manager, or designee, shall consider all special event applications pursuant to the procedures established in this section.

(D) The following activities are exempt from the special event permit requirement, but may be subject to additional permits or requirements (i.e., soliciting permits, Health Department and the like):

(1) Pushcart sales;

(2) Funeral services and processions;

(3) Activities solely conducted by the town;

(4) Lawful picketing on sidewalks; and

(5) Demonstrations that do not involve the use of vehicles, animals, fireworks, pyrotechnics or equipment (other than sound equipment); provided that:

(a) No fee or donation is charged or required as a condition of participation in or attendance at such demonstration; and

(b) The Town Manager, or designee, is notified at lease 48 hours in advance of the commencement of the demonstration.

(Ord. 2009-6-1, passed 6-29-2009)

§ 110.03 REQUIREMENTS FOR SPECIAL EVENT PERMIT APPLICATION.

(A) The application for a special event permit shall be filed with the Town Manager, or designee, not less than 60 days, nor more than two years, before the date of the proposed special event. The Town Council may waive this time limit and approve a shorter or longer filing period.

(B) The application shall include the following information (when applicable to the nature of the event):

(1) The name, address and telephone number of the applicant;

(2) A certification that the applicant will be financially responsible for any town fees or costs that may be imposed for the event;

(3) The name, address and telephone number of the event organizer, if any, and the chief officer of the event organizer, if any;

(4) If the special event is designated to be held by, on behalf of or for any organization other than the applicant, the applicant for the special event permit shall file a written communication from such organization:

(a) Authorizing the applicant to apply for the special event permit on its behalf; and

(b) Certifying that the applicant will be financially responsible for any costs or fees that may be imposed for the event.

(5) A copy of the tax exemption letter issued for any applicant claiming to be a tax-exempt non-profit organization;

(6) A statement of the purpose of the special event;

(7) A statement of fees to be charged for the special event;

(8) The proposed signage, boundaries, location, map, dates, times, routes, alternative routes, staging areas, reviewing, parking or disbanding stands or areas;

(9) The approximate number of persons and kinds and number of animals, structures or vehicles that will participate in the special event, and the parking plan for the vehicle(s);

(10) Plan for trash removal;

(11) The number of bands or other musical units and the nature of any equipment to be used to produce sounds or noise;

(12) The number and location of portable sanitation facilities;

(13) Other equipment or services necessary to conduct the event with due regard for public health and safety;

(14) The number of persons proposed or required to monitor or facilitate the special event and provide spectator or participant control and direction for events using city streets, sidewalks or facilities;

(15) Provisions for first aid or emergency medical services, or both, based on event risk factors;

(16) Insurance and surety bond information;

(17) Any special or unusual requirements that may be imposed or created by virtue of the proposed event activity;

(18) Relevant information on the location, number and names of vendors and the types of goods or services being or intended to be marketed within the boundaries of the special event; and

(19) Any other information required by the Town Manager.
(Ord. 2009-6-1, passed 6-29-2009)

§ 110.04 CONDITIONS AFFECTING THE ISSUANCE OF A SPECIAL EVENTS PERMIT.

(A) The Town Manager, or designee, may approve the issuance of a special event permit, when all of the following conditions are met.

(1) The event will not substantially interrupt public transportation or other vehicle and pedestrian traffic in the area of its route, including specifically the displacement of vehicular parking into adjacent or neighboring commercial areas not part of the venue, or into adjacent or neighboring residential areas.

(2) The event will not cause a conflict with construction or development in the public right-of-way or at a public facility.

(3) The event will not block traffic lanes or close streets during peak commuter hours on weekdays or weekends, as determined by the Town Manager, or designee.

(4) The event will not require the diversion of a great number of police employees from their normal duties, thereby preventing reasonable police protection for the remainder of the town.

(5) The concentration of persons, animals or vehicles will not unduly interfere with the movement of police, fire, ambulance and other emergency vehicles on the streets.

(6) The event will move from its assembly location to its disbanding location expeditiously and without stopping en route.

(7) The event will not substantially interfere with any other event or demonstration for which a permit has already been granted or with the provision of town services in support of other scheduled events or unscheduled governmental functions such as visits of chiefs of state.

(8) The event will not have unmitigatable adverse impact upon residential or business access and traffic circulation in the same general venue.

(9) If the event is a marathon, it will not occur within 30 calendar days of another marathon.

(B) To make determinations under this section, the Town Manager, or designee, shall consider pedestrian and traffic circulation and parking, traffic volume and population density, time of year and neighboring or adjacent zoning uses.
(Ord. 2009-6-1, passed 6-29-2009)

§ 110.05 DENIAL OF A SPECIAL USE PERMIT.

(A) The Town Manager, or designee, may deny a special event permit to an applicant who has not:

(1) Provided a sufficient traffic plan or sufficient traffic controls by persons appropriately trained, certified or appointed pursuant to state law which enables the control of traffic;

(2) Provided for an adequate parking plan that does not displace vehicles into neighboring or adjacent non-participating commercial or residential areas;

(3) Provided sufficient monitors and a security plan for crowd control and safety;

(4) Provided sufficient safety, health and sanitation equipment, services or facilities that are reasonably necessary to ensure that the event will be conducted with due regard to public safety and sanitation;

(5) Provided sufficient off-site parking or shuttle service, or both, when required to minimize any substantial adverse impacts on general parking and traffic circulation in the vicinity of the event;

(6) Provided sufficient signage information upon which approval can be granted;

(7) Met all of the requirements for submitting an application for a special event permit; or

(8) Failed to demonstrate that the applicant is financially able to bear the responsibility for any fees or costs that may be imposed by the town for the event.

(B) The Town Manager, or designee, may also deny a special event permit when:

(1) Given the projected attendance at the event, or the time, place and manner of conducting the event, the security plan as detailed in the application is deemed insufficient by the Town Manager, or designee, and is likely to create the possibility of violent disorderly conduct, likely to endanger the public safety, or to result in property damage;

(2) The event may violate public health or safety laws;

(3) The event fails to conform to the requirements of any law;

(4) The applicant demonstrates an inability or unwillingness to conduct an event pursuant to the terms and conditions of this section;

(5) The applicant has failed to conduct a previously authorized special event in any jurisdiction in accordance with the law or the terms of a permit, or both;

(6) The applicant has not obtained approval of any other public agency within whose jurisdiction the special event or portion thereof will occur;

(7) The applicant has failed to provide an adequate first aid or emergency medical services plan based on event risk factors; or

(8) The applicant has failed to comply with any term of this chapter, or any condition of a special event permit previously issued to the applicant.

(C) An applicant may appeal the denial of a special event permit to the Town Council. The appeal request must be made in writing and delivered to the Town Manager, or designee, within 30 days of the denial of the special event permit.

(Ord. 2009-6-1, passed 6-29-2009)

§ 110.06 DISPLAY OF SPECIAL EVENT PERMIT.

A copy of the special event permit shall be on-site at the special event, and shall be exhibited at the request of any public official.

(Ord. 2009-6-1, passed 6-29-2009)

§ 110.07 DATE OF SPECIAL EVENT NOT CONFIRMED UNTIL PERMIT ISSUED; NOTIFICATION OF ABUTTING PROPERTY OWNERS.

No date of a special event shall be considered confirmed until the Town Manager, or designee, has issued the special event permit. Once the permit has been issued, the applicant must show that all those persons, organizations and entities owning property directly abutting the event site have been notified of the date, time and place of the event.
(Ord. 2009-6-1, passed 6-29-2009)

§ 110.08 USE OF TOWN SEAL OR NAME.

The issuance of a special event permit shall not be considered an endorsement of the event by the town. It shall be unlawful for a person, organization or entity to represent, hold out, promote or publish to another that the town has endorsed the event unless such endorsement is authorized by action of the Town Council. Use of the seal of the town is prohibited unless such use is authorized by action of the Town Council.
(Ord. 2009-6-1, passed 6-29-2009) Penalty, see § 110.99

§ 110.09 INSURANCE REQUIRED TO CONDUCT SPECIAL EVENTS; HOLD HARMLESS.

(A) The organizer of a special event must possess or obtain a comprehensive general liability insurance policy from an A-rated insurance company to protect against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the event. Insurance coverage must be maintained for the duration of the event. Notice of cancellation shall be provided immediately to the town. When applicable, the town may require proof of workers compensation and auto liability insurance.

(B) Comprehensive general liability insurance coverage shall be in a combined single limit of at least $1,000,000.

(C) The insurance shall encompass all liability insurance requirements imposed for other permits required under other sections of this code or ordinances and is to be provided for the benefit of the public and not as a duty, express or implied, to provide insurance protection for spectators or participants. The event organizer's current effective insurance policy, or copy, along with necessary endorsements, shall be filed with the Town Manager at least 30 calendar days before the event, unless the Manager, or designee, for good cause, modifies the filing requirements.

(D) No permit is valid until the applicant shall provide adequate insurance as required by this section.
(Ord. 2009-6-1, passed 6-29-2009)

§ 110.10 REVOCATION OF A SPECIAL EVENT PERMIT.

(A) Any permit may be revoked if the Town Manager, or designee, determines that:

(1) Any event cannot be conducted without violating the standards or conditions for special event permit issuance;

(2) The event is being conducted in violation of any condition of the special event permit;

(3) The event poses a threat to public health or safety;

(4) The event organizer or any person associated with the event has failed to obtain any other permit required pursuant to this code;

(5) The special event permit was issued in error or contrary to law; or

(6) The facts or assertions in the application have been falsified or misrepresented.

(B) Notices of revocation shall be in writing and specifically set forth the reasons for the revocation.

(C) If there is an emergency requiring immediate revocation of a special event permit, the Town Manager or the Police Chief or the Fire Chief, or their respective designees, may notify the permit holder verbally of the revocation and the permit holder shall immediately comply with any order of the Police Chief, Fire Chief or their respective designees.

(Ord. 2009-6-1, passed 6-29-2009)

§ 110.11 COST RECOVERY FOR SPECIAL EVENTS.

(A) (1) For any special event requiring the expenditure of public resources, the town shall charge for the actual cost of:

(a) A reasonable fee for town personnel involved in permit processing, event control, police, fire safety, trash removal, clean up or other facility or event support; and

(b) Any other non-personnel expense.

(2) Special events sponsored by the town are exempt from such charges.

(B) The Town Manager, or designee, shall require the payment of any fees required, or a reasonable estimate thereof, at the time the special event permit is issued, unless the Town Manager, or designee, for good cause extends the time for payment. The Town Manager, or designee, may require adequate surety in the form of a cash deposit or a letter of credit in favor of the town to cover any additional costs incurred by the town for cleanup and repair to the site and trash removal following the event.

(C) If the event organizer fails to pay in full those fees required by this chapter, the applicant and/or the event organizer will be billed for actual town costs incurred as a result of the event.

(D) Cost recovery for special events conducted by non-profit organizations may be waived by the town if the Town Council determines that a public purpose is served. A public purpose is served if all four of the following criteria are met:

(1) The event is organized and conducted by a tax-exempt non-profit organization which operates from or provides services within the town or county;

(2) The event provides an identified benefit to the general public;

(3) The event includes participation by the general public (notwithstanding an admission or participation fee); and

(4) Provision of town services will result in improved crowd or event control and will promote general public safety, and does not diminish or detract from the normal level of

service for its citizens, based upon the evaluation, advice and approval of the Town Manager, or designee.
(Ord. 2009-6-1, passed 6-29-2009)

§ 110.12 AUTHORIZED VENDORS.

(A) The issuance of a special event permit does not confer upon the permit holder or event organizer the right to control and regulate the sale of goods, food and beverages within the special event venue; such sales must comply with the terms and conditions of the special event permit and the rules and regulations of the town and the county.

(B) The issuance of a special event permit does not relieve any person from the obligation to obtain any other permit or license required pursuant to the town's Development Ordinance, code of ordinances or other laws, including, but not limited to, health codes.

(C) It is unlawful for any person to sell, resell, or offer to sell or resell, any goods, food or beverages within the special event venue, except in the manner as set forth in the application approved by the Town Manager, or designee.
(Ord. 2009-6-1, passed 6-29-2009) Penalty, see § 110.99

§ 110.13 STRICT LIABILITY OFFENSES.

Violations of this chapter shall subject the violator to liability regardless of intent.
(Ord. 2009-6-1, passed 6-29-2009)

§ 110.14 UNLAWFUL TO DISPLAY SIGNS IN SPECIAL EVENT VENUE, EXCEPT AS PERMITTED.

It is unlawful for any person to place, post, paint, erect, display, secure or maintain any sign or banner pertaining to the special event unless pre-approved by the Town Manager, or designee, based upon the application and permitting process. The number of signs, sign face size, height, location and duration of display shall be addressed in the application. No sign shall obstruct a sight triangle or be placed within ten feet of the boundary line of the property serving as the venue.
(Ord. 2009-6-1, passed 6-29-2009) Penalty, see § 110.99

§ 110.15 UNLAWFUL TO INTERFERE WITH A PERMITTED FACILITY USE, SPECIAL EVENT OR DEMONSTRATION.

It shall be unlawful for any person to obstruct, impede or interfere with any authorized assembly, person, vehicle or animal participating in a demonstration or event for which a special event permit has been issued.
(Ord. 2009-6-1, passed 6-29-2009) Penalty, see § 110.99

§ 110.16 COST RECOVERY FOR UNLAWFUL SPECIAL EVENT.

Whenever a commercial or non-commercial special event is conducted without a special event permit when one is required, or an event is conducted in violation of the terms of an issued special event permit, or an event exceeds the size identified in the application, the event organizer shall be responsible for, and the Town Manager shall charge the event organizer for, all town costs incurred for personnel and equipment for public safety response caused or necessitated by the adverse impacts of the event, or the violation of the special event permit, upon public safety.
(Ord. 2009-6-1, passed 6-29-2009)

§ 110.17 ALCOHOL.

If a special event will involve the consumption of beer and wine, the event organizer shall provide the Town Manager, or designee, with the following:

(A) A statement of the applicant's intent to sell, serve and/or allow the consumption of beer and wine and a copy of the applicant's ABC permit demon- strating that the applicant is properly licensed to allow the sale and consumption of beer and wine within the plan-defined area as shown on the special event permit application;

(B) The location and boundaries of the area within which beer and wine is to be served, sold and/or consumed shall be shown in the special events application;

(C) A verified statement by the applicant that:

(1) Its ABC permit is in good standing; and

(2) The applicant has not been cited for any violation of its ABC permit for the premises within the previous three-year period. If the applicant has been cited, the applicant must provide a statement describing the circumstances for which it was cited and describing what penalty, if any, was imposed for the incident.

(D) The event organizer, or an authorized officer or member if the event organizer is not an individual, must sign an agreement to indemnify and hold harmless the town from any and all claims of property damage, personal injury or death arising from or related to the provision of outdoor table service and/or alcohol at the special events venue;

(E) The event organizer has, or will have, in place for the duration of the permit period, liability insurance with a minimum limit of $1,000,000 for the premises and all activities conducted thereon. The policy shall specifically name the town as a third-party insured and must provide insurance coverage at events where alcohol is served; and

(F) A copy of the approved ABC permit.
(Ord. 2009-6-1, passed 6-29-2009)

§ 110.18 SALE OF ALCOHOLIC BEVERAGES AT PERMITTED EVENTS ON PUBLIC STREETS.

Notwithstanding the general prohibition on the consumption of alcoholic beverages established by the town's code of ordinances, it shall be lawful for a special event permittee to serve or sell malt beverages and unfortified wine where the boundaries of the area in which such

beverages are to be sold and consumed is clearly delineated, where access to such sales is restricted to persons who shall be at least 21 years of age, and where the following requirements are met:

(A) Such town property designated is not in front of an existing restaurant, bar or private club. If a restaurant, bar or private club is participating in the special event, this provision may be waived to allow said entity to participate in the event;

(B) All applicable health and ABC laws are complied with;

(C) The contents of beer bottles or cans or wine bottles shall be poured into appropriate cups or glasses;

(D) All empty bottles and cans shall be handled in such a way as to not be broken or left on town property and shall be recycled to the extent required by ABC laws; and

(E) The permittee shall be required to maintain proper decorum and order, and must leave the area in a clean condition.

(Ord. 2009-6-1, passed 6-29-2009) Penalty, see § 110.99

§ 110.19 FIREARMS.

Except for sworn certified law enforcement personnel, the possession of firearms in the special events area is prohibited.

(Ord. 2009-6-1, passed 6-29-2009) Penalty, see § 110.99

§ 110.99 PENALTY.

The Town Manager, or designee, is authorized to administer and enforce the provisions of this chapter and may exercise any enforcement powers as set forth in law. Any person violating any provision of this chapter shall be subject to a civil penalty in the amount of $250 for the first violation and an additional $50 for each day the violation is not corrected. Penalties under this chapter are considered restorative and intended to provide the town with compensation for costs associated with the town's program to monitor, control, prosecute, cure and/or correct the violation. Violations of any other section of the town's Development Ordinance or code of ordinances, state or local fire codes, state or local building codes, or any other rule or regulation may result in the imposition of additional restorative penalties. Any citizen or organization subjected to such penalty shall have the right to appeal to an independent hearing officer by procedures established by the Town Manager, or designee.

(Ord. 2009-6-1, passed 6-29-2009)

CHAPTER 111: ADULT-ORIENTED ESTABLISHMENTS

Section

111.01 Purpose
111.02 Definitions
111.03 Restriction of location of uses

111.04 Annual regulatory license required; investigation of applicant
111.05 Licensing of employees and independent contractors in adult entertainment required; investigation of applicants
111.06 Denial of license; revocation
111.07 Appeals from denial or revocation

§ 111.01 PURPOSE.

It is recognized that there are some establishments designed for adults only. Regulation of these establishments is necessary to ensure that adverse effects will not contribute to the incidence of criminal activity and will not present unreasonable problems for routine law enforcement.
(Ord. 2004-12-1, passed 12-24-2004)

§ 111.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT ARCADE. (Also known as ***PEEP SHOW***.) Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities and/or specified anatomical areas.

ADULT BOOKSTORE or ***ADULT VIDEO STORE.*** An establishment having as a substantial or significant portion (25% or more) of its stock in trade, for any form of consideration, any one or more of the following materials:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which are distinguished or characterized by the depiction or description of specified sexual activities and/or specified anatomical areas; or

(2) Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

ADULT CABARET. A nightclub, bar, private club, restaurant or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:

(1) Persons who appear nude or semi-nude;

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(3) Films, motion pictures, videocassettes, slides or other photographic reproductions which depict or describe specified anatomical areas.

ADULT-ORIENTED ESTABLISHMENT. Includes, but is not limited to, adult arcades, adult bookstores or adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios, sexual encounter centers and any premises to which public patrons or members are invited or admitted and which are so physically arranged so

as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purposes of viewing adult-oriented motion pictures or wherein an entertainer or waiter provides adult entertainment (including entertainment such as described in the definition of adult cabaret) to a member of the public, a patron or a member, where or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

ADULT MOTEL. A hotel, motel or similar commercial establishment that:

(1) Offers accommodations to the public, for any form of consideration, and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographic reproductions that depict or describe specified sexual activities and/or specified anatomical areas as one of its principal business purposes; and

(2) Offers a sleeping room for rent for a period time that is less than ten hours, or allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown as one of its principal business purposes which depict or describe specified sexual activities and/or specified anatomical areas and which have not been rated by the Motion Picture Association of America.

ADULT THEATER. A theater, concert hall, auditorium or similar commercial establishment where regularly features, exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nudity, or live performances that expose or depict specified anatomical areas and/or specified sexual activities.

ESCORT. A person who, for tips or any other form of consideration, agrees or offers to act as a date of another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business that furnishes, offers to furnish or advertises to furnish escorts as one of its principal business purposes, for a fee, tip or any other form of consideration.

LICENSE. Any person, partnership, company, corporation or other entity issued a license pursuant to this section.

NUDE MODEL STUDIO.

(1) Any place where a person who appears nude or semi-nude, or who displays specified anatomical areas, is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any other form of consideration.

(2) ***NUDE MODEL STUDIO*** shall not include a proprietary school licensed by the state or a college, junior college or university supported entirely or in part by taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicated a nude or semi-nude person is available for viewing;

(b) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

(c) Where no more than one model in a nude or semi-nude condition is on the premises at any one time.

NUDE or ***A STATE OF NUDITY.*** The appearance of a human anus, male genitals or female genitals; or a state of dress which fails to opaquely cover a human anus, male genitals or female genitals.

SEMI-NUDE or ***SEMI-NUDITY.*** A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

SPECIFIED ANATOMICAL AREAS.

(1) Less than completely and opaquely concealed human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(1) Depiction or display of human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia, masochism, sadism or sadomasochism, fellatio or cunnilingus; and

(3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(Ord. 2004-12-1, passed 12-24-2004)

§ 111.03 RESTRICTION OF LOCATION OF USES.

The location of the uses defined above shall be governed by the town's Development Ordinance as amended and effective on 1-1-2001, and as amended from time to time.

(Ord. 2004-12-1, passed 12-24-2004)

§ 111.04 ANNUAL REGULATORY LICENSE REQUIRED; INVESTIGATION OF APPLICANT.

(A) An annual regulatory license shall be required on or before January for each adult arcade, adult bookstore or adult video store, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, adult cabaret, adult live entertainment business, adult motel, adult oriented establishment or other like or similar use located in the incorporated area of town. Said license shall be issued by the County Sheriff. No license shall be issued until an application is made to the county's Sheriff's Department which shall cause an investigation to be made to determine whether the applicant has complied with this section and all other requirements of the applicable governmental codes and state statutes. The Sheriff's Department shall be assisted in completing this investigation by the other county departments

that oversee the various codes that govern this activity. Each application or renewal must be accompanied by a fee of $100 to help cover the cost of the investigation and administration.

(B) Each application must be sworn to and contain the following information as a minimum:

(1) Name, current address, Social Security number (or state driver's license number or another unique personal identification number acceptable to the county), current photograph, fingerprint card and age of applicant. If the applicant is a partnership, the application must include the names, current addresses, identification numbers, current photographs and ages of all persons who constitute such partnership. If the applicant is a company or corporation, the application must include the names, current addresses, identification numbers, current photographs and ages of its directors, officers and principal stockholders;

(2) The names, addresses, Social Security numbers (or state driver's license number or another unique personal identification number acceptable to the county), current photographs and ages of all present employees of the business or establishment. If there are no employees, the application must contain a statement to the effect;

(3) The street address of the premises where the establishment shall be located;

(4) The name and address of any other such business or establishment owned or operated, either wholly or partially, by any person whose name is required to be given in divisions (B)(1) and (B)(2) above; and

(5) A complete statement of any conviction(s) within the preceding ten years for any person whose name is required to be given in division (B)(1) above, for violation of any non-vehicle-related statute, law, ordinance or regulation of any government.

(C) (1) As a condition of the issuance and continued validity of this license, each licensee shall maintain documentation including current photographs, positive proof of identify and age for all employees, entertainers and/or independent contractors or agents who are hired or allowed to work at the business or establishment.

(2) Said information shall be made available promptly upon request to any sworn law enforcement officer of any city, town, county, the state or the United States. Said information shall be maintained and so made available for no less than three years after the termination of any such work relationship with licensee.

(D) Licenses issued pursuant to this section shall be in addition to other licenses or permits required by the this code of ordinances of the town or state law.

(Ord. 2004-12-1, passed 12-24-2004)

§ 111.05 LICENSING OF EMPLOYEES AND INDEPENDENT CONTRACTORS IN ADULT ENTERTAINMENT REQUIRED; INVESTIGATION OF APPLICANTS.

(A) No person shall engage in the business of entertaining, rendering or furnishing personal services to others for compensation in an adult-oriented establishment or other business defined in § 111.02 of this chapter as an employee or independent contractor unless such person shall have first applied for and received a regulatory license as required by this section. Said license shall be obtained from the county's Sheriff and shall be valid for four years from the date of issuance. No license shall be issued until an application is made to the county's Sheriff's Department, which shall cause an investigation to be made to determine where the applicant has

complied with tins section and all other requirements of the application governmental codes and state statutes. The Sheriff's Department shall be assisted in completing this investigation by the other county departments that oversee the various codes that govern this activity. Each application must be accompanied by a fee of $50 to help cover the cost of the investigation and administration.

(B) Every application of a license under this section shall be given under oath and shall contain the following information:

(1) The name, Social Security number (state driver's license number or other official identification number, acceptable to the county) age, current photograph, fingerprint card and current residence address of the applicant including any stage name(s) used by the applicant;

(2) A complete statement of the previous business or occupation of the applicant for the two years immediately preceding the date of the application, including any relevant experience in adult-oriented establishments;

(3) A complete statement of all convictions in the preceding ten years of the applicant for any felony or misdemeanor offense or violation of a local ordinance;

(4) A complete statement of any revocation of any license granted by any governmental unit to the applicant to perform personal services of the type governed by this chapter; and

(5) The date of place of the applicant's birth and the residence or address or addresses of the applicant for the five years immediately preceding the date of the application.

(C) As a condition of the issuance and continued validity of this license, each person working or allowed to work, with or without compensation, as an employee or independent contractor in an adult-oriented establishment or other business as defined in the section must maintain with them documentation including positive proof of identity and age. This documentation shall be made available promptly upon request to any law enforcement officer of any city, town, county, the state or the United States.

(D) Licenses issued pursuant to this section shall be in addition to other licenses or permits required by this code of ordinances of the town.

(Ord. 2004-12-1, passed 12-24-2004) Penalty, see § 10.99

§ 111.06 DENIAL OF LICENSE; REVOCATION.

(A) Applications for any license under this chapter shall be denied if:

(1) The application is incomplete or contains a misstatement of fact or false information;

(2) The applicant's business fails to conform to all requirements of applicable zoning, building, health and fire prevention codes and regulations; and

(3) The applicant does not meet the conditions set out in this chapter.

(B) Any license issued pursuant to this section may be revoked if:

(1) The licensee violates any provision of this section;

(2) The licensee, or any agent of the licensee, employs or permits any person to provide services at a licensed establishment of the types regulated by this chapter, which person has not been issued the privilege license required by this chapter, or whose license under this article has been revoked;

(3) The licensee is convicted of any felony involving sexual misconduct, prostitution or unlawful use, sale or trafficking in alcohol or drugs or any controlled substances;

(4) Any employee or independent contractor of the licensee is convicted of any crime involving sexual misconduct, prostitution or unlawful use, sale or trafficking in alcohol or drugs or other controlled substances which occurred while on the regulated premises; and

(5) The licensee violates any zoning, building, health, fire prevention or similar law or ordinance, as determined in a final order of an administrative official or court with jurisdiction.

(C) This section may be enforced by any and all remedies provided by applicable law and this code of ordinances of the town.

(Ord. 2004-12-1, passed 12-24-2004)

§ 111.07 APPEALS FROM DENIAL OR REVOCATION.

All appeals from the denial of revocation of any license granted hereunder shall be heard by the Town Manager or his or her designee. Any person or legal entity who is denied said license or whose licensed is revoked must appeal the denial in writing within 15 days of notice of the denial to the Town Manager by filing said appeal with that office. Following reasonable opportunity to be heard, the Town Manager or his or her designee shall promptly make a decision. Thereafter, any aggrieved party may pursue remedies as provided by the laws of the state.

(Ord. 2004-12-1, passed 12-24-2004)

CHAPTER 112: SOLICITORS, CANVASSERS AND PEDDLERS

Section

112.01 Definitions
112.02 Permit required; peddling, canvassing, sale of goods
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112.99 Penalty

§ 112.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PEDDLER. Any individual whether a resident of the town or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house or from street to street, in the town, selling or attempting to sell goods, wares and merchandise and personal property of any nature whatsoever for immediate delivery or delivery within 24 hours. This definition shall not apply to the following persons:

(1) Those who peddle solely to industrial, commercial or professional establishments within the town;

(2) Those who peddle solely agricultural or forest products which have not been subjected to manufacturing process; and

(3) Those peddling for schools, approved educational, fire, police, religious or charitable organizations when the provisions of any applicable business license tax ordinances or permitting procedures have been complied with.

SOLICITOR or ***CANVASSER.***

(1) Any individual, whether a resident of the town or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or from services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not; provided that, the definition shall include any person, who for himself, herself or for another person hires, leases, uses or occupies any building, structure, tent, hotel room, lodging house, apartment, shop or any other place within the town for the sole purpose of exhibiting samples and taking orders for future delivery.

(2) This definition shall not apply to, and this chapter shall not apply to, the following persons:

(a) Those who solicit orders solely from industrial, commercial or professional establishments within the town;

(b) Those who solicit orders solely for agricultural or forest products;

(c) Those who solicit orders solely for any kind of insurance, if such individual is licensed by the state, county or town; and

(d) Those soliciting for schools, approved educational, fire, police, religious or charitable organizations when the provisions of any applicable business license tax ordinances or permitting procedures have been complied with.

(3) For the purposes of this chapter, the term ***SOLICITOR*** more specifically refers to those individuals seeking contributions without providing anything of value in exchange for the contribution.

(4) This term may be used interchangeably with ***PANHANDLER*** or ***BEGGAR***.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.02 PERMIT REQUIRED; PEDDLING, CANVASSING, SALE OF GOODS.

It shall be unlawful for any person to engage in peddling or canvassing within the corporate limits of the town without first obtaining a permit.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013) Penalty, see § 112.99

§ 112.03 APPLICATION FOR PERMIT; PERMIT FEE.

(A) Applicants for a permit under this chapter shall personally file with the Town Manager (or designated agent) a sworn application in writing on a form to be furnished by the town, which shall give the following information:

(1) Name and description of the applicant;

(2) Permanent home address and full local address of the applicant;

(3) A brief description of the nature of the business and the goods to be sold;

(4) If employed, or acting as agent, the name and address of the employer, or principal, together with credentials establishing the exact relationship;

(5) Length of time for which the permit is desired;

(6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

(7) Two photographs of the applicant, taken within the 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguished manner;

(8) The fingerprints of the applicant;

(9) A copy of a background check, completed with the last 30 days by the town, a fee for which the Town Council shall establish; which indicates whether or not the applicant has been convicted of any crime, misdemeanor or violation of any laws or municipal ordinances, the nature of the offense and the punishment or penalty assessed thereof; and

(10) Proof of insurance/bonding from a company licensed to issue such policies within the state.

(B) At the time of filing the application, a fee as fixed from time to time by the Council shall be paid to the town to cover the cost of issuing the permit.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.04 RULINGS ON APPLICATIONS AND APPEALS THEREFROM.

If the Town Manager (or their designee) shall find the previous criminal record of the applicant justifies the conclusion that the health and safety of occupants of the places solicited might be menaced by commission of a breach of peace or some form of assault, he or she shall not approve the permit. Whenever an application for a permit is disapproved on this ground, the applicant shall have the right to appeal from the decision of the Town Manager by filing with the Town Clerk within 14 days after the applicant receives notice that the application has been disapproved, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing in the appeal and notice of the hearing shall be given to the applicant by mailing the notice, postage paid, to the licensee at his or her last-known address at least five days prior to the date set for the hearing. The decision of the Council on the appeal shall be final and conclusive.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.05 ISSUANCE AND CONTENTS OF PERMIT; COPY OF CHAPTER.

Upon receipt (and approval) of an application for a permit and payment of the prescribed fee therefor, the Town Manager or his or her designated agent shall deliver to the applicant the following:

(A) A permit containing the signature of the issuing officer, the name, address and photograph of the applicant, the class (type) of permit issued and the kind of goods to be sold thereunder, the date of issuance of the permit, the length of time the permit shall be in effect and the license plate number and other identifying description of any vehicle used in such business; and

(B) A copy of the provisions of this chapter.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.06 DURATION OF PERMIT.

The permit issued under the provisions of this chapter shall be effective for a period of time not exceeding 90 days during the fiscal year beginning July 1 and ending on the succeeding June 30.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.07 PERMIT TO BE PRODUCED WHEN CALLED FOR; ENFORCEMENT.

It shall be the duty of any police officer in the town, any employee (contracted or permanent) of the town, or any tax collection officials of the town to require any person seen

soliciting, canvassing or peddling to produce his or her permit and to enforce the provisions of this chapter against any person found to be violating the same.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.08 REVOCATION OF PERMIT; GROUNDS.

The permits issued under the provisions of this chapter may be revoked by the town and after notice and hearing for any of the following causes:

(A) Fraud, misrepresentation or false statement contained in the application for permit;

(B) Fraud, misrepresentation or false statement made in the course of carrying on his or her business;

(C) Any violation of this chapter;

(D) Conducting the business in an unlawful or abusive manner or in such a manner as to constitute a breach of the peace or menace to the health and enjoyment of the privacy of the home of any individual; or

(E) Conviction during the permit year of any crime or misdemeanor involving moral turpitude.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.09 REVOCATION OF PERMIT; NOTICE OF HEARING.

Notice of hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds for complaint and the time and place of hearing. Such notice shall be mailed, postage paid, to the person holding the permit at his or her last-known address at least five days prior to the date set for the hearing.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.10 REVOCATION; APPEAL ON REVOCATION.

Any person aggrieved by the action of the town in the revocation of a permit as provided in § 112.08 of this chapter shall have the right to appeal to the Town Council. Such appeal shall be taken by filing with the Town Clerk within 14 days after notice of the action complained of has been mailed to the person's last-known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on the appeal and notice of the hearing shall be given to the applicant in the same manner as provided for notice of hearing on refusal to grant a permit. The decision of the Council on the appeal shall be final and conclusive.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.11 RENEWAL OF PERMITS.

Permits may be renewed upon the application of permit holder at any time. An applicant shall request renewal in writing and state at that time any changes applicable to his or her initial application for a permit. Fees shall apply for any request for renewal as if the permit was an initial request. Upon application for renewal, the Town Manager or his or her designee shall issue the applicant a renewal permit covering an additional period, not to exceed 90 days. Only one renewal per fiscal year (July 1 - June 30) may be approved. Any subsequent requests for permit renewals must reapply for a permit, submit a new application with all information and pay any applicable fees.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.12 WHEN PERMITS REQUIRED; SOLICITATION.

(A) It shall be unlawful for any person, organization, society, association or corporation, or for any agent, member of representative thereof, directly or indirectly, to solicit property or financial assistance of any kind, to sell or offer to sell any article, tag, service, emblem, publication, ticket, advertisement, subscription or anything of value, on the plea or the representation that such sale or solicitation, or the proceeds thereof, is for a charitable, educational, religious, patriotic or philanthropic purpose, on the streets, in any office or business building, by house to house canvass, or in any other public or private place, by telephone, personal solicitation, by mail, or in any other way, in the town, unless such person, organization, society, association or corporation shall have first duly secured a permit as provided in this chapter.

(B) At the sole discretion of the Town Manager, the requirement for a permit may be waived for: any established society, association or corporation that is organized and operated exclusively for religious, educational, philanthropic, benevolent, fraternal (e.g., Boy Scouts/Girl Scouts), charitable or reformatory purposes, not operated for pecuniary profit, where no part of the net earnings of which inure to the benefit of any person, private shareholder or individual, and where the solicitation of such organization shall be conducted solely among the members thereof by other members or officers thereof, voluntarily and without remuneration for such solicitation or where such solicitation may be in the form of collections or contributions at the regular exercises or services of any church, religious society, lodge, benevolent order or fraternity or similar organizations, or of any branch thereof. The Manager may request such information as listed in § 112.13 of this chapter to aid him or her in determining if these criteria are met.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013) Penalty, see § 112.99

§ 112.13 APPLICATIONS FOR PERMITS; SOLICITATION.

A written application for a permit to solicit for any cause whatever as provided in this chapter shall be sworn to and filed with the town, and said application shall contain the following information:

(A) Name of the organization applying for a permit to solicit and the address of its headquarters;

(B) Names and addresses of its principal officers and management;

(C) The purpose for which any receipts derived from such solicitation are to be used;

(D) The name of the person or persons by whom the receipts of such solicitation shall be disbursed;

(E) The name and address of the person or persons who will be in direct charge of conducting the solicitation;

(F) An outline of the method or methods to be used in conducting the solicitation;

(G) The time when such solicitations shall be made, giving the proposed dates for the beginning and ending of such solicitations;

(H) A copy of the organization's non-profit status, if applicable;

(I) A full statement of the character and extent of the charitable, religious, educational or philanthropic work being done by the applicant organization within the town; and

(J) Such other information as may be required by the Town Manager in order to fully determine the kind, character and worthiness of the proposed solicitations and as to whether or not such solicitation is in the interest of protecting the health, life and property of the citizens of the town and in the interest of preserving and enforcing good government and for the security of the town and its inhabitants.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.14 WHEN PERMIT TO BE ISSUED; SOLICITATION.

(A) Upon receipt of an application as provided in § 112.13 of this chapter, the Town Manger or his or her designee shall make or cause to be made such investigation as is deemed necessary in regard thereto in order to determine that such proposed solicitation is, in fact, to be conducted for a worthy charitable, educational, religious, philanthropic or patriotic purpose, and that the proceeds from such solicitation shall be used, and if the Town Manager shall be satisfied that the cause for which such solicitation is to be made is, in fact, for a worthy charitable, educational, religious, patriotic or philanthropic purpose and that the proceeds derived from such solicitation will be used for such purpose, and that such solicitation is not promoted or conducted primarily for the private profit of its promoters, and that such solicitation will not be incompatible with the protection of health, life and property of the citizens of the town, then the Town Manager or his or her designee shall approve such application and shall issue a permit to such applicant for the proper period.

(B) Any worthy charitable, patriotic, religious, educational or philanthropic organization or representative thereof desiring to solicit at street intersections within the corporate limits must state this method of solicitation on the application. Before a permit will be issued, the applicant must first receive written authorization from the Town Manager. The Manager will designate the intersection or intersections where the solicitations can be held. It shall be unlawful for any organization or representative thereof to solicit at intersections within the corporate limits without prior authorization from the Town Manager. The Manager or his or her designee shall notify the Sheriff's Department of any intent to solicit within the street right-of-way.

(C) If a privilege license fee has been required by ordinance, an applicant shall be required to pay such fee and receive a license prior to soliciting. The applicant must also provide a copy of the professional fund-raising counsel license or professional solicitation license he or she has obtained from the state's Department of Human Resources to obtain a privilege license.

(D) A ***PROFESSIONAL SOLICITOR*** means any person who, for a financial or other consideration, solicits or employs another to solicit contributions. A salaried employee of the person for whom the contributions are solicited or of its tax-exempt parent organization and the person for whom the contributions are solicited are not included within the term ***PROFESSIONAL SOLICITOR***.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013) Penalty, see § 112.99

§ 112.15 PERIOD OF PERMITS; RENEWALS; SOLICITATION.

The Town Manager or his or her designee shall determine from the application and from such facts as may be developed in connection with such application the period for which such permit shall be approved and granted; provided that, such period shall not exceed 90 days however, upon further application, information or reports as may be deemed necessary to safeguard the interest of the public and carry out the purposes of this section, the Town Manager or his or her designee may renew and extend such permit for additional periods, not to exceed 90 days.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.16 REPORTS THAT MAY BE REQUIRED BY TOWN.

The Town Manager or his or her designee may require from any permittee hereunder any reports or information at any time and at such intervals as in the discretion of the Town Manager shall be necessary for the successful administration of the provisions of this chapter and the protection of the health, life and property of the citizens of the town.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.17 PERMITS NOT TRANSFERABLE.

Any permit approved and issued under this chapter shall be non-transferable; however, this shall not prevent any permittee from using any number of solicitors and representatives as shall be reported to the town.
(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.18 DENIAL OR REVOCATION OF PERMITS.

(A) If, upon receipt of written information, complaints or upon investigation the Town Manager or his or her designee shall find that any agent or representative of the applicant has not applied for and received a license required by the state, or if any agent or representative of the applicant has misrepresented or made untrue statements on the application, or if the Manager determines that such solicitations may not be conducted in a manner inimical to the protection of health, life and property, or in the best interests of the citizens of the town, or will not be in

conformity with the intent and purpose of this chapter, then it shall be the duty of the Town Manager or his or her designee to deny a permit.

(B) If, upon receipt of written information or upon investigation, the Town Manager or his or her designee shall find that any agent or representative of the permittee is misrepresenting or making untrue statements with regard to solicitation, or has made untrue statements in the application, or that in any way the solicitation has been conducted or is being conducted in a manner inimical to the protection of the health, life and property of the citizens of the town and not in conformity with the intent granted hereunder is an endorsement of such solicitation, then it shall be the duty of the Town Manager or his or her designee to revoke said permit; provided, however, that, before any permit is revoked, the Manager shall give the permittee 24 hours' notice in writing that a hearing is to be had; and that at said hearing the Town Manager shall ascertain the facts; and, if any reasons above set forth for revoking the permit are found to exist, the permit shall be revoked.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.19 APPEAL TO COUNCIL WHERE PERMIT REFUSED OR REVOKED; SOLICITATION.

Any person or organization denied a permit, or whose permit has been revoked by the Town Manager, may request an appeal to the Town Council. Such appeal shall be taken by filing with the Town Clerk within 14 days after notice of the action complained of has been mailed to the person's last-known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on the appeal and notice of the hearing shall be given to the applicant in the same manner as provided for notice of hearing on refusal to grant a permit. The decision of the Council on the appeal shall be final and conclusive.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.20 AGGRESSIVE SOLICITATION PROHIBITED.

(A) (1) The Council finds that:

(a) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder;

(b) Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic; and

(c) The presence of individuals who solicit money from persons at or near banks, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid or where a person might find it necessary to wait.

(2) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGGRESSIVE MANNER.

(a) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;

(b) Following the person being solicited, if that conduct is:

1. Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

2. Intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(c) Continuing to solicit a person within five feet of the person being solicited after the person has made a negative response;

(d) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;

(e) Using obscene or abusive language or gestures toward the person being solicited;

(f) Approaching the person being solicited in a manner that:

1. Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

2. Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

AUTOMATED TELLER MACHINE. A device, linked to a bank's account records, which is able to carry out banking transactions.

AUTOMATED TELLER FACILITY. The area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers.

BANK. Includes a bank, savings bank, savings and loan association, credit union, trust company or similar financial institution.

BUS. A vehicle operated by a transit authority for public transportation.

CHECK CASHING BUSINESS. A person in the business of cashing checks, drafts or money orders for consideration.

PUBLIC AREA. An outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way or the common area of a school, hospital, apartment house, office building, transport facility or shop.

SOLICIT.

(a) To request, by the spoken, written or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered;

(b) A person commits an offense if the person solicits:

1. In an aggressive manner in a public area;

2. In a bus, at a bus station or stop or at a facility operated by a transportation authority for passengers;

3. Within 25 feet of:

a. An automated teller facility;
b. The entrance or exit of a bank; or
c. The entrance or exit of a check cashing business.

4. At a marked crosswalk; and
5. On either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit.

(C) A culpable mental state is not required, and need not be proved, for an offense under divisions (b)2., (b)3. or (b)4. above under the definition of "solicit".

(D) This section is not intended to proscribe a demand for payment for services rendered or goods delivered.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013) Penalty, see § 112.99

§ 112.21 PEDESTRIANS SUBJECT TO TRAFFIC-CONTROL SIGNALS.

Pedestrians shall be subject to traffic-control signals where such devices are in place or special pedestrian signals as designated. But, at all other places, pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013) Penalty, see § 112.99

§ 112.22 PEDESTRIANS SOLICITING RIDES, BUSINESS OR CONTRIBUTIONS.

(A) No person shall stand, sit or walk in a roadway for the purpose of soliciting a ride, employment, business or contributions from the occupant of any vehicle traveling in or upon a roadway or stopped momentarily in compliance with a duly-erected traffic control device or traffic sign located upon the roadway. Exceptions as provided for worthy charitable, patriotic, religious, educational or philanthropic organizations as described in § 112.13 of this chapter may apply.

(B) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway or while soliciting such vehicles to park in an off-street parking facilities.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013) Penalty, see § 112.99

§ 112.23 LICENSE REQUIRED FOR DISPLAYS OF ART, CRAFTS, FLEA MARKETS, RUMMAGE SALES AND SIMILAR USES.

Every person peddling, soliciting, canvassing or promoting the display or sale of arts and craft items and merchandise, wares or other tangible items in the town in connection with a flea market, rummage sale, arts and crafts fairs or other temporary use shall obtain a license per divisions (A) and (B) below.

(A) *Exhibition show/safes; arts and crafts.*

(1) Every person using any site or location for the purpose of promoting the display or sale of arts and crafts items on a permanent basis shall pay for such privilege a license fee per year of $75.

(2) When an exhibition of arts, crafts or other items of merchandise is totally sponsored by a non-profit organization conducting the exhibition show for charitable, cultural, religious or civic purposes, and no person or corporation outside of the organization is hired or engaged to promote such exhibit for a fee or percentage, and there is no buying, selling, trading or taking of orders for future delivery, the organization shall pay a license fee of $25 per year; provided that, there are no more than six two-day events scheduled per year. More than six two-day events shall be considered a permanent basis. In this division (A), ***EXHIBITION SHOWS AND SALES*** means an exhibition or show where arts and crafts are displayed for show and/or sale either out of doors or in a building occupied in whole or in part.

(B) *Flea markets and rummage sales.*

(1) Every person using any site or location for the purpose of promoting the display or sale of merchandise, wares or other tangible items in connection with a flea market or rummage sale shall pay a license tax of $75 per sale period. The sale period shall not exceed five consecutive days.

(2) When a group of individuals place merchandise in the same location under one general manager or promoter, the general manager or promoter shall pay a license fee of $100 per sale period. The sale period shall not exceed five consecutive days. Any other exemptions provided for by this chapter shall not apply to the license required by this section. This does not apply to individuals having a yard sale as defined by the town's Land Development Ordinance. In general, yard sales are construed to be sales of previously-owned or used merchandise and not of a general retail nature. Determinations of whether the event exceeds the intent of the ordinance to exclude yard sales will be at the discretion of the Town Manager or his or her designee.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013) Penalty, see § 112.99

§ 112.24 FEES.

(A) Seventy-five dollars for each permit for sales of goods, plus $50 for each canvasser, peddler or employee, (includes background check fee); and

(B) No charge for solicitation permits for any worthy charitable, patriotic, religious, educational or philanthropic organization.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

§ 112.99 PENALTY.

Violation of § 112.20 of this chapter is a misdemeanor, punishable by a fine of up to $500.

(Ord. 1984-2-1, passed 2-21-1984; Ord. passed 7-16-2013)

CHAPTER 113: NATURAL GAS; SERVICE

Section

113.01 Regulations

113.99 Penalty

§ 113.01 REGULATIONS.

All persons, firms and corporations given and granted a franchise to sell and distribute natural gas in the town shall:

(A) Obtain a permit from the town prior to the installation of any gas service lines and the extension of any existing lines, or the extension of any services within the town limits of the town and any extension of the town limits;

(B) Make all connections for gas services in accordance with the *Standard of the National Board of Fire Underwriters for the Installation of Gas Appliances and Gas Piping*, as recommended by the National Fire Protection Association;

(C) Make any and all installations and repairs in connection with the maintenance of gas service lines along, across, in and under any street, curb, sidewalk, gutter and any other public place in the town in accordance with the specifications of the town; and

(D) Furnish and provide the town with a complete, accurate, up-to-date map of the town showing the proposed location of any and all lines and valves to be installed, the location of all existing lines and valves, and the location of any proposed extension of existing lines and valves, prior to any such installation and extension of such lines.

(Ord. 1966-10-1, passed 10-19-1966) Penalty, see § 113.99

§ 113.99 PENALTY.

Any violation of the requirements set forth in § 113.01 of this chapter shall cause such person, firm or corporation to be liable for any loss and damage resulting from such violation and subject such person, firm or corporation to such penalty or penalties as may be, by law, provided.

(Ord. 1966-10-1, passed 10-19-1966)

CHAPTER 114: CABLE TELEVISION

Section

114.01 Purpose
114.02 Title; effect
114.03 Definitions
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114.50 Franchise applications
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114.99 Penalty

§ 114.01 PURPOSE.

(A) The town finds that the development of cable television systems has the potential of having great benefit and impact upon the people in the incorporated areas of town. Because of the complex and rapidly changing technology associated with cable television, the town further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the town or such persons as the town shall designate. It is the intent of this chapter and subsequent amendments to provide for and specify the means to advance and protect the public interest in these matters, and any franchise issued pursuant to this chapter shall be deemed to include this finding as an integral part thereof.

(B) Further, it is recognized that cable television systems have the capacity to provide entertainment and information services to the town's residents, and may have the capacity to provide a variety of cable television services to institutions and individuals.

(C) For these purposes, the following goals underlie the regulations contained herein.

(1) Cable television services should be provided to the maximum number of town residents at the most reasonable cost.

(2) The system should be capable of accommodating both the present and reasonably foreseeable future state-of-the-art cable television needs of the town.

(3) The systems authorized by this chapter shall be responsive to the needs and interests of the local community, and shall provide the widest possible diversity of information sources and services to the public.

(4) Each of the goals enumerated in divisions (C)(1) through (C)(3) above shall be sought taking into account the costs and benefits to the residents of town.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.02 TITLE; EFFECT.

(A) This chapter shall be known and may be cited as "Town of Jamestown Cable Television Ordinance", and it shall become a part of the ordinances of the town.

(B) This chapter shall take effect and be in force from and after its adoption for the grant of any new franchise or renewal of any franchise existing at the time of adoption.

(C) This chapter shall be governed by and subject to the Communications Act of 1984, being 47 U.S.C. §§ 521 et seq., as amended, including any future amendments relating to telecommunications and cable television communications, and other applicable laws.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.03 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein unless otherwise defined by federal or state law. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

ADDITIONAL SERVICE. Any cable service other than basic service provided over the system.

ACCESS CHANNELS. Any channels on the system provided herein by the operator for access use by the town, its agencies and citizens, in accordance with the Cable Act, being 47 U.S.C. §§ 521 et seq.

BASIC SERVICE. A separately available tier to which subscription is required for access to any other tier of service. ***BASIC SERVICE TIER*** shall, at a minimum, consist of the following: all signals carried in fulfillment of the Cable Act, §§ 614 and 615, being 47 U.S.C. §§ 614 and 615; any public, educational and governmental access programming required in this chapter or the franchise; any signal of any television broadcast station that is provided by the cable operator to any subscriber, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station. Additional signals may be added to the basic tier by the grantee.

BOARD. The Town of Jamestown Town Council.

CABLE ACT. See ***COMMUNICATIONS POLICY ACT*** below.

CABLE SERVICE. The one-way transmission to subscribers of video programming or other programming service, together with subscriber interaction, if any, which is required for selection or use of such video programming or other programming service.

CABLECAST SIGNAL. A non-broadcast signal that originates within the facilities of the system.

CHANNEL. A six megahertz (MHZ) frequency band, which is capable of carrying either one standard video signal, a number of audio, digital or other non- video signals or some combination of such signals. One ***CHANNEL*** of high definition television may utilize more than six MHZ.

COMMERCIAL SUBSCRIBER. A subscriber who receives a service in a place of business where the service may be utilized in connection with a business, trade or profession.

COMMUNICATIONS POLICY ACT or ***CABLE ACT.*** The Cable Communications Policy Act of 1984, being 47 U.S.C. §§ 521 et seq., and the Telecommunications Consumer Protection and Competition Act of 1992, being 47 U.S.C. §§ 521 et seq., as they may be amended or succeeded.

CONVERTER. An electronic device which, converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and any channel selector which permits a subscriber to view all signals delivered at designated converter dial locations at the set.

DISCRETE CHANNEL. A channel which can only be received by the person and/or institution intended to receive signals on such channel.

DOWNSTREAM SIGNAL. A signal originating from or provided by system to a subscriber terminal or other terminal including video, audio, or digital signals or any other type of data or information for either programs or other uses such as security alert services and the like.

DROP. A coaxial, fiber or other connection from feeder cable to the subscriber/user residence or place of business.

EDUCATIONAL ACCESS CHANNEL. Any channel designated for educational access use, in accordance with the Cable Act, being 47 U.S.C. §§ 521 et seq.

FAIR MARKET VALUE. The price that a willing buyer would pay to a willing seller for a going concern based on the system valuation prevailing in the industry at the time.

FCC. The Federal Communications Commission and any legally appointed successor.

FRANCHISE. The non-exclusive rights granted pursuant to this chapter to construct, operate and maintain a system along the public rights-of-way within all or a specified area in the town. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the town as required by other ordinances and laws of the town, state or federal governments.

FRANCHISE AREA. The entire town for which a franchise is granted under the authority of this chapter. If not otherwise stated in the franchise, the ***FRANCHISE AREAS*** shall be the entire town, or any territories thereafter annexed by the town.

FRANCHISE FEE. The percentage, as specified by the town, of the franchisee's gross annual revenues from all sources payable (as permitted by the Cable Act, being 47 U.S.C. §§ 521 et seq.) in exchange for the rights granted pursuant to this chapter and the franchise agreement.

FRANCHISEE or ***GRANTEE.*** The natural person(s), partnership(s), domestic and foreign corporation(s), association(s), joint venture(s) or organization(s) of any kind which has been legally granted a franchise by the town and its lawful successor, transferee or assignee.

GOVERNMENT ACCESS CHANNEL. Any channel specifically designated or dedicated for government access use, in accordance with the Cable Act, being 47 U.S.C. §§ 521 et seq.

GRANTOR. The Town of Jamestown as represented by the Jamestown acting within the scope of its jurisdiction.

GROSS ANNUAL REVENUES. All receipts received directly or indirectly by the grantee, from providing cable services within the town, including, but not limited to, basic subscriber and additional service monthly fees, pay cable fees, installation and reconnection fees, leased channel fees, converter rentals, and advertising revenues; provided, however, that, this shall not include any taxes or copyright fees on services furnished by the grantee.

HEADEND. The electronic control center of the system including components that amplify, filter and convert incoming broadcast and other television and electronic signals for distribution over the cable system.

INSTALLATION. The connection of the system from the drop cable to subscribers' terminals.

MONITORING. Observing a communications signal, or the absence of a signal, where the observer is not a party to the communication, whether the signal is observed by visual or electronic means, for any purpose whatsoever.

NARROWCASTING. The ability to distribute cable programming to a particular segment or segments of the cable subscribers.

PERSON. An individual, partnership, association, organization, corporation or any lawful successor or transferee of said individual, partnership, association, organization or corporation.

PLANT MILE. A linear mile of cable as measured on the street or easement from pole to pole or pedestal to pedestal.

PUBLIC ACCESS CHANNEL. Any channel designated or dedicated for access use by the general public or non-commercial organizations, in accordance with the Cable Act, being 47 U.S.C. §§ 521 et seq., which is made available for use without charge, on a non-discriminatory basis, in accordance with the rules and regulations specified in the franchise and over which grantee has no editorial control.

PUBLIC WAY or ***PUBLIC RIGHTS-OF-WAY.*** The surface, the air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkways, waterways, utility easements or other public right-of-way now or hereafter held by the town which shall entitle the town and the grantee to the use thereof for the purpose of installing and maintaining the system. No reference herein, or in any franchise, to the ***PUBLIC WAY*** shall be deemed to be a representation or guarantee by the town that its title to any property is sufficient to permit its use for such purpose, and the grantee shall, by its use of such terms, be deemed to gain only such rights to use property in the town as the town may have the undisputed right and power to give or as granted by federal or state law.

REASONABLE NOTICE. Written notice addressed to the grantee at its principal office within the town or such other office as the grantee has designated to the town as the address to which notice shall be transmitted to it, which notice shall be certified and postmarked not less than seven business days prior to that day in which the party giving such notice shall commence any action which requires the giving of notice. In computing said seven days, holidays recognized by the town shall be excluded.

RESIDENT. Any person residing in the town as otherwise defined by applicable law.

RESIDENTIAL SUBSCRIBER. A subscriber who receives a service in an individual dwelling unit where the service is not to be utilized in connection with a business, trade or profession.

SALE. Any sale, exchange, barter or offer for sale.

SCHOOL. Any state accredited public or nonprofit educational institution including primary and secondary schools, colleges and universities, both public and private.

SERVICE AREA. The entire geographic area within the franchise area.

STATE. The State of North Carolina.

STATE-OF-THE-ART. The franchisee shall construct, install and maintain its system in a manner which will continue to enable it to add new services and associated equipment as they are developed, available and when economically feasible and marketable to subscribers to the reasonable satisfaction of the franchisee.

SYSTEM. A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include any of the following:

(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) A facility that serves only subscribers in one or more multiple dwelling units under common ownership, control or management, unless such facility or facilities uses any public rights-of-way;

(3) A facility of a common carrier which is subject in whole or in part to the provision of Part II of the Cable Act, being 47 U.S.C. §§ 531 et seq.; except that, such facility shall be considered a ***CABLE SYSTEM*** to the extent that such facility is used in the transmission of video programming directly to subscribers; or

(4) Any facilities of any electric utility used solely for operating its electric utility systems.

TOWN. The Town of Jamestown, North Carolina, a political subdivision of the State of North Carolina.

TRANSFER. The disposal by the grantee, directly or indirectly, by gift, assignment, voluntary sale, assets acquisition, merger, consolidation or otherwise, of 50% or more at one time of the ownership or controlling interest in the system, or 50% cumulatively over the term of the franchise of such interest to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert.

TRUNK LINE. The major distribution cable used in cable communications, which divides into feeder lines which are tapped for service to subscribers.

UPSTREAM SIGNAL. A signal originating from a subscriber terminal to another point in the system including video, audio, or digital signals or any other type of data or information for either programs or other uses such as security alert services and the like.

USER. A person or organization utilizing channel or equipment and facilities for purpose of producing and/or transmission of material, as contrasted with receipt thereof in a subscriber capacity.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.04 GRANT OF FRANCHISE.

(A) *Grant.* In the event that town shall grant to the grantee a non-exclusive, revocable for cause franchise to construct, operate and maintain a system within the town said franchise shall constitute both a right and an obligation to provide the services of a system as regulated by the provisions of this chapter and the franchise.

(B) *Event of conflict.* The franchise shall be granted under the terms and conditions contained herein, consistent with and subject to all applicable statutory requirements. In the event of conflict between the terms and conditions of this chapter, the franchise, or the terms and conditions on which the town can grant a franchise, statutory requirements shall control.

(C) *Generally applicable ordinances.* Any franchise granted by the town is hereby made subject to the general ordinance provisions now in effect and hereafter made effective. Nothing in the franchise shall be deemed to waive the requirements of the various codes and ordinances of the town or other applicable law regarding permits, fees to be paid or manner of construction.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.05 USE OF PUBLIC RIGHTS-OF-WAY.

Insofar as permitted by law and for the purpose of operating and maintaining a system in the town, the grantee may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the public ways within the town such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary to the operation of the systems, provided, however, that, the grantee complies with all design, construction, safety and performance provisions contained in this chapter, the franchise agreement, and other applicable local ordinances.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.06 USE OF GRANTEE FACILITIES.

(A) No poles shall be erected by the grantee without prior approval of the town which shall not be unreasonably withheld, with regard to location, height, type and any other pertinent aspect.

(B) However, no location of any pole of the grantee shall be a vested right and such poles shall be removed or modified by the grantee at its own expense whenever the town reasonably determines that the public convenience would be enhanced thereby. The grantee shall utilize existing poles and conduits, where possible.

(C) The town shall have the right, during the life of the franchise, to install and maintain free of charge upon the poles owned by the grantee, any wire and pole fixtures that do not unreasonably interfere with the cable system operations of the grantee; provided, the town shall at all times indemnify and hold grantee harmless against any and all claims which might arise as a result of the town's use.

(Ord. 1998-9-1, passed 9-15-1998) Penalty, see § 114.99

§ 114.07 FRANCHISE REQUIRED.

No system shall be allowed to occupy or use the streets of the town or be allowed to operate in the town without a franchise.

(Ord. 1998-9-1, passed 9-15-1998) Penalty, see § 114.99

§ 114.08 TERM OF FRANCHISE.

The term of any franchise granted pursuant to this chapter shall be stated in the franchise.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.09 FRANCHISE NON-EXCLUSIVE.

(A) The franchise discussed herein is non- exclusive.

(B) The town specifically reserves the right to grant at any time such additional franchises for a system it deems appropriate.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.10 TIME IS OF THE ESSENCE.

Whenever this chapter or an agreement shall set forth any time for an act to be performed by or on behalf of the grantee, such time shall be deemed of the essence and any failure of the grantee to perform within the time allotted shall always be sufficient grounds for the town to invoice an appropriate penalty including possible revocation of the franchise.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.11 LAW GOVERNS.

In any controversy or dispute under this chapter, the law of the state shall apply and venue shall be in state or federal court for town.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.12 SEVERABILITY.

If any section, division, sentence, clause, phrase or portion of this chapter or the franchise is for any reason held invalid or unconstitutional by any court of competent jurisdiction, or by any federal, state or local statute or regulation, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.13 TRANSFER OF OWNERSHIP OR CONTROL.

(A) *Transfer of franchise.* Any franchise granted hereunder cannot in any event be sold, transferred, leased, assigned or disposed of, including, but not limited to, by force or voluntary sale, merger, consolidation, receivership or other means without the prior consent of the town, which shall not be unreasonably withheld.

(B) *Transfer threshold.* The grantee shall promptly notify the town of any actual or proposed change in or transfer of, or acquisition by any other party of, control of the grantee. The word “control”, as used herein, is not limited to major stockholders, but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the disposal by the grantee, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or otherwise, of 50% or more, at one time, of the ownership or controlling interest in the system, or 50% cumulatively over the term of the franchise of such interest to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert. The town shall exercise its power to approve a transfer of ownership or control in a manner consistent with § 617 of the Communications Act (47 U.S.C. § 537).

(C) *Process.* Every Transfer, sale, lease, assignment or disposition of, including, but not limited to, by force or voluntary sale, merger, consolidation, receivership or other means or acquisition of control of the grantee shall make the franchise subject to cancellation unless and until the town shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such transfer, sale, lease, assignment or disposition of, including but not limited to, by force or voluntary sale, merger, consolidation, receivership or other means or acquisition of control of the grantee the town may inquire into the legal, financial, character, technical and other public interest qualifications of the prospective controlling party, and the grantee shall assist the town in any such inquiry. Failure to provide all information reasonably requested by the town as part of said inquiry may be grounds for denial of the proposed transfer, sale, lease, assignment or disposition of, including but not limited to, by force or voluntary sale, merger, consolidation, receivership or other means or acquisition of

control of the grantee. If the town finds that such transfer, after considering the legal, financial, character, technical and other public interest qualifications of the applicant, is satisfactory, the town will transfer and assign the rights and obligations of such franchise as in the public interest. The consent of the town to such transfer shall not be unreasonably withheld.

(D) *Assumption of control.* The town agrees that any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the system shall have the right to notify the town that it or its designee satisfactory to the town will take control and operate the system. Further, said financial institution shall also submit a plan for such operation that will ensure continued service and compliance with all franchise obligations during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the system for a period exceeding one year, unless extended by the town at its discretion and, during said period of time, it shall have the right to petition for transfer of the franchise to another grantee.

(E) *Regulation of transfer.* The consent or approval of the town to any transfer of the grantee shall not constitute a waiver or release of the rights of the town in and to the streets, rights-of-way or areas appurtenant thereto, and any transfer shall, by its terms, be expressly subject to the terms and conditions of this chapter and the franchise.

(F) *Construction requirement.* In the absence of extraordinary circumstances, the town will not approve any transfer or assignment of the franchise prior to completion of construction of the proposed initial system.

(G) *Signatory requirement.* Any approval by the town of transfer shall be contingent upon the prospective controlling party becoming a signatory to the franchise.

(H) *Exceptions.* Notwithstanding anything to the contrary no such consent shall be required for any transfer to any person controlling, controlled by or under the same common control of the grantee so long as the grantee continues to guarantee the performance, under the terms of the ordinance and the franchise agreement, of the transferee.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.14 FRANCHISE RENEWAL.

(A) The grantee shall own the system, but shall have no right to use of public rights-of-way upon the completion of the franchise term.

(B) The town shall grant or deny renewal of the franchise of a grantee in accordance with § 626 of the Communications Act (47 U.S.C. § 546) or other applicable law.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.15 POLICE POWERS.

(A) *Acknowledgments.* In accepting the franchise, the grantee acknowledges that its rights hereunder are subject to the police power of the town to adopt and enforce general ordinances necessary to the safety and welfare of the public, and it agrees to comply with all applicable general laws and ordinances enacted by the town pursuant to such power.

(B) *Conflict.* Any conflict between the provisions of this chapter or the franchise and any other present or future lawful exercise of the town's general police powers shall be resolved

in favor of the latter; except that, any such exercise that is not of general application in the jurisdiction or applies exclusively to grantee or systems which contains provisions inconsistent with this chapter shall prevail only if, upon such exercise, the town finds an emergency exists constituting a danger to health, safety, property or general welfare and such exercise is mandated by law.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.16 FRANCHISE FEES.

(A) Because the town finds that:

(1) The public ways of the town and state to be used by the grantee in the operation of its system within the boundaries of the franchise area are valuable public properties acquired and maintained at great expense to its taxpayers;

(2) The grant to the grantee to the said public ways is a valuable property right without which the grantee would be required to invest substantial capital in right-of-way costs and acquisitions; and

(3) The administration of this chapter or the franchise imposes upon the town additional regulatory responsibility and expense, a grantee of any franchise hereunder shall pay to the town a franchise fee in an amount as designated in the franchise agreement. The town reserves the right to change the franchise fee as stated in the franchise agreement, by adopting an ordinance establishing the new franchise fee rate and allowing reasonable notice to the grantee for administration of the change. This franchise fee payment shall be in addition to any other fee and commence as of the effective date of the franchise. The town shall be furnished a statement of said payment by the vice president for finance of the grantee, reflecting the total amounts of gross annual revenues and computations for the period covered by the payment.

(B) *Franchise fee in addition to other tax.* This payment shall be in addition to any other tax or payment of general applicability owed by the grantee to the governments or other taxing jurisdiction. Payment of the franchise fee made by grantee to the town shall be in addition to any and all taxes of general applicability which are now or may be required hereafter to be paid by any federal, state or local law.

(C) *Acceptance by the town.* No acceptance of any payment by the town shall be construed as a release or as an accord and satisfaction of any claim the town may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the grantee.

(D) *Failure to make required payment.* In the event that any franchise payment or recomputed amount is not made on or before the dates specified herein, the grantee shall pay as additional compensation an interest charge, computed from such due date, at the annual rate equal to the commercial prime interest rate of the town's primary depository bank, plus 3%, during the period that such unpaid amount is owed.

(E) *Quarterly payments.* The franchise fee and any other costs, charges or damages assessed shall be payable quarterly to the town. The grantee shall file a complete and accurate verified statement of all gross annual revenue within the franchise area during the period for which said quarterly payment is made, and said payment shall be made to the town not later than 45 days after the expiration of each calendar quarter. Quarterly computation dates are the last day in the months of March, June, September and December.

(F) *Audits.* The town shall have the right to inspect the grantee's income records and the right to audit and to recompute any amounts determined to be payable under this chapter. Audits shall be at the expense, of the grantee if the additional amount due is greater than 2% of the amount paid. Any additional amount due to the town as a result of the audit shall be paid within 30 days following written notice to the grantee by the town which notice shall include a copy of the audit report.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.17 FORFEITURE OR REVOCATION.

(A) *Grounds for revocation.* The town reserves the right to revoke any franchise granted hereunder and rescind all rights and privileges associated with the franchise in accordance with the Communications Act and with the procedures set forth herein in the following circumstances, each of which represents a default and breach under the ordinance and the franchise grant:

(1) If the grantee shall default in the performance of any of the material obligations under this chapter or under such documents, contracts and other terms and provisions entered into by and between the town and the grantee, including timely payment of any amounts owed;

(2) If the grantee shall fail to provide or maintain in full force and effect the liability and indemnification coverage or the performance bond as required herein;

(3) If the grantee shall violate any orders or rulings of any regulatory body having jurisdiction over the grantee relative to this chapter or the franchise and after notice thereof, shall continue the violation and not remedy the same within 60 days;

(4) If the grantee practices any fraud or engages in any unfair or deceptive act or practice with regard to the town or subscribers under the laws of the state;

(5) The grantee's construction schedule is delayed later than the schedule contained in the franchise or beyond any extended date set by the town;

(6) The grantee becomes insolvent, unable or unwilling to pay its debts or is adjudged bankrupt;

(7) The grantee fails to restore service after 96 consecutive hours of interrupted service, except when written approval of such interruption is obtained from the town;

(8) The grantee misrepresents a material fact in the application for or negotiation of the franchise or any extension or renewal thereof; and

(9) The grantee ceases to provide cable services for any reason that is within the control of the grantee over the system.

(B) *Effect of circumstances beyond control of the grantee.* The grantee shall not be declared at fault or be subject to any sanction under any provision of this chapter in any case, in which performance of any such provision is prevented or delayed due to an act of God or reasons beyond the grantee's control. A fault shall not be deemed to be beyond the grantee's control if committed by a corporation or other business entity in which the grantee holds a controlling interest, whether held directly or indirectly.

(C) *Court order.* The grantor and grantee will abide by the terms of any stay order issued by a court of competent jurisdiction.

(D) *Procedure prior to revocation.*

(1) The town shall make written demand that the grantee comply with any such material requirement, limitation, term condition, rule or regulation or correct any action deemed cause for revocation. If the failure, refusal or neglect of the grantee continues for a period of 30 days following such written demand, the town shall place its request for termination of the franchise upon a regular Council meeting agenda. The town shall cause to be mailed by certified mail to such grantee at least ten days prior to the date of such council meeting, a written notice of this intent to request such termination and the reason therefor, and the time and place of the meeting, notice of which shall be published by the Clerk to the Town Council at least once, ten days before such meeting in a newspaper of general circulation within the town.

(2) The Council shall hear any persons interested therein, and shall determine in its discretion, whether or not any failure, refusal or neglect by the grantee was with just cause.

(3) If such failure, refusal or neglect by the grantee was with just cause, as reasonably defined by the town, the Council shall direct the grantee to comply within such time and manner and upon such terms and conditions as are reasonable.

(4) If the Council shall determine such failure, refusal or neglect by the grantee was without just cause, then the Council shall, by resolution, declare that the franchise of the grantee shall be terminated and bond forfeited either conditionally or unconditionally.

(5) If the revocation of the franchise depends upon a finding of fact, such finding of fact shall be made by the town only after an administrative hearing, providing the grantee with a full and fair opportunity to be heard, including without limitations the right to introduce evidence, the right to production of evidence and to question witnesses. A transcript shall be made of such hearings. The grantee shall have the right to appeal any such administrative decision to a court of competent jurisdiction.

(E) *Disposition of facilities.* In the event a franchise is revoked or otherwise terminated, the town may, in its sole discretion, do any of the following:

(1) Purchase the system under the procedures set forth in this chapter, at a fair market price;

(2) Effect a transfer of the system to another person; or

(3) Order the removal of the system facilities required by public necessity from the town within a reasonable period of time as determined by the town or require the original grantee to maintain and operate its system for a period of six months or until such further time as is mutually agreed upon.

(F) *Restoration of property.* In removing its system, or part thereof, the grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good a condition or better as that existing prior to the grantee's removal of its system without affecting the electrical or telephone cable, wires or attachments. The town may inspect and approve the condition of the public ways and cables, wires, attachments and poles after removal. The liability, indemnity, insurance and performance bond as provided herein shall continue in full force and effect during the period of removal and until the grantee has fully complied with the terms and conditions of this chapter and the franchise.

(G) *Restoration by town; reimbursement of costs.* In the event of a failure by the grantee to complete any restoration work required by the town within the time as may be established by the town and to the satisfaction of the town, the town may, following reasonable notice to the grantee, cause such work to be done and the grantee shall reimburse the town the cost thereof within 30 days after receipt of an itemized list of such cost, or the town may at its

option recover such costs through the performance bond provided by grantee. The town shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

(H) *Extended operation.* Upon either the denial of renewal or revocation of a franchise, the town may require the grantee to continue to operate the system for a period of six months from the date of such denial or revocation, or until such time beyond six months as is mutually agreed upon. The grantee shall, as trustee for its successor in interest, continue to operate the system under the terms and conditions of this chapter and the franchise. The town shall be permitted to seek legal and equitable relief to enforce the provisions of this section. (Ord. 1998-9-1, passed 9-15-1998)

§ 114.18 RECEIVERSHIP AND FORECLOSURE.

(A) *Termination by insolvency.* The franchise granted hereunder shall, at the option of the town, cease and terminate 120 days after the appointment of a receiver or receivers or trustee or trustees to take over and conduct the business of the grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of said 120 days, or unless:

(1) Such receivers or trustees shall have, within 120 days after their election or appointment, fully complied with ail the terms and provisions of this chapter and the franchise granted pursuant hereto, and the receivers or trustees within said 120 days shall have remedied all defaults under the franchise; and

(2) Such receivers, or trustees shall, within said 120 days, execute an agreement duly approved by the court having jurisdiction in the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision and condition of the franchise herein granted.

(B) *Termination by judicial action.* In the case of a foreclosure or other judicial sale of the plant, property and equipment of the grantee or any part thereof, including or excluding the franchise, the town may serve notice of termination upon the grantee and the successful bidder at such sale, in which event the franchise and all rights and privileges of the grantee granted hereunder shall cease and terminate 30 days after service of such notice, unless:

(1) The town shall have approved the transfer of the franchise as provided by this chapter, and

(2) Such successful bidder shall have covenanted and agreed with the town to assume and be bound by every term, provision and conditions of the franchise herein granted. (Ord. 1998-9-1, passed 9-15-1998)

§ 114.19 EQUAL OPPORTUNITY POLICY.

Equal opportunity employment shall be afforded by the grantee to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, age, national origin, sex, or handicap. The grantee shall comply with all equal opportunity provisions enacted by federal, state and local authorities and, in particular, § 634 of the Communications Act (47 U.S.C. § 554), as well as all such provisions contained in this chapter and the franchise. (Ord. 1998-9-1, passed 9-15-1998) Penalty, see § 114.99

§ 114.20 NOTICES.

All notices from grantee to the town pursuant to this chapter and the franchise shall be to the Town Manager or his or her designee. The grantee shall maintain with the town, throughout the term of the franchise, an address for service of notices by mail which address shall be noted in the franchise agreement.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.21 FAILURE OF TOWN TO ENFORCE THIS FRANCHISE, NO WAIVER OF THE TERMS THEREOF.

The grantee shall not be excused from complying with any of the terms and conditions of this chapter or the franchise by any failure of the town upon any one or more occasions to insist upon or to seek compliance with any such terms or conditions.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.22 RIGHTS RESERVED TO THE GRANTOR.

(A) *Right of inspection of records.* The town shall have the right to inspect all books, records, reports, maps, plans, financial statements and other like materials of the grantee, at any time during normal business hours, when necessary to ascertain the grantee's compliance with this chapter, the franchise and all applicable laws.

(B) *Right of inspection of construction.* The town shall have the right to inspect all construction or installation work performed subject to the provisions of the franchise and to make such tests as it shall find necessary to ensure compliance with the terms of this chapter and all applicable laws.

(C) *Right of inspection of property.* At all reasonable times, the grantee shall permit examination by any duly authorized representative of the town of the system, together with any appurtenant property of the grantee situated within or without the town when necessary to ascertain the grantee's compliance with this chapter, the franchise and all applicable laws.

(D) *Right of intervention.* The town shall have the right of intervention in any suit or proceeding to which the grantee is party, and the grantee shall not oppose such intervention by the town.
(Ord. 1998-9-1, passed 9-15-1998) Penalty, see § 114.99

§ 114.23 NO RECOURSE AGAINST THE GRANTOR.

Except when seeking equitable relief, the grantee shall have no recourse whatsoever against the town or its officials, boards, commissions, agents or employees for any loss, cost, expense or damage arising out of any provision or requirements of the franchise or because of the enforcement of this chapter or the franchise.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.24 REGULATORY AUTHORITY.

(A) The town shall exercise appropriate regulatory authority under the provisions of this chapter, the Communications Act, and all applicable law. This authority shall be vested in the Town Council and administered through the Town Manager or his or her designee in order to provide day-to-day administration and enforcement of the provisions of this chapter and any franchise granted hereunder, and to carry out the town's responsibilities with regard to cable television.

(B) Notwithstanding any other provisions of this chapter to the contrary, the grantee shall at all times comply with all laws and regulations of the local, state and federal government. In the event that any actions of the state or federal government or any agency thereof, or any court of competent jurisdiction upon final adjudication, substantially reduce in any way the power or authority of the town under this chapter or the franchise, or if in compliance with any local, state or federal law or regulation, the grantee finds conflict with the terms of this chapter, the franchise or any law or regulation of the town, then as soon as possible following knowledge thereof, the grantee shall notify the town of the point of conflict believed to exist between such law or regulation and the laws or regulations of the town, this chapter and the franchise. The town or the grantee may notify the other party that it wishes to renegotiate those provisions which are affected in any way by such modification in regulations or other statutory authority. Thereafter, the grantee and the town shall negotiate in good faith in the development of alternate provisions which shall fairly restore the town to the maximum level of authority and power permitted by law.

(C) The town reserves the right to exercise the maximum plenary (full) authority, as may at any time be lawfully permissible, to regulate the system, the franchise and the grantee. Should applicable legislative, judicial or regulatory authorities at any time permit regulation not presently permitted to the town, the town may, following good faith negotiations, engage in any such additional regulation as may then be permissible, whether or not contemplated by this chapter or the franchise, including without limitation, regulation regarding franchise fees, taxes, programming, rates charged to subscribers and users, consumer protection or any other similar or dissimilar matter. The town shall have the right to modify any of the provisions to such reasonable extent as may be necessary to carry out the full intent and purpose of this chapter and the franchise in accordance with federal and state law; provided, however, no modifications shall increase the obligation of the grantee or limit the rights of the grantee hereunder.
(Ord. 1998-9-1, passed 9-15-1998) Penalty, see § 114.99

§ 114.25 SUPERVISION OF THE FRANCHISE.

(A) The town shall have the following regulatory responsibility:

(1) Administration and enforcement of the provisions of this chapter and any franchise granted hereunder to the full extent necessary to assure compliance with the ordinance and the franchise agreement;

(2) Award, renewal, extension or termination of a franchise pursuant to the provisions of this chapter, the franchise and other applicable law;

(3) Consent prior to transfer of any franchise granted hereunder;

(4) Performance evaluation of the grantee; and

(5) Rate and service regulation, if applicable.

(B) The town also reserves the right to perform the following functions:

(1) Develop objectives and coordinate activities related to the operation of government access channels;

(2) Approve procedures and standards for public, educational and government access operations and services, including the use of dedicated channels and sharing of public facilities;

(3) Coordinate plans for expansion, interconnection and growth of cable services;

(4) Analyze the possibility of integrating cable communications with other town, state or regional cable television networks;

(5) Formulate and recommend long-range cable television policy for the town, and determine the town's view of the future cable-related needs and interests of the community;

(6) Provide the administrative effort necessary for the conduct of performance evaluations, and any other activities required for the administration of the franchise;

(7) Monitor the grantee's process for handling citizen complaints and periodically inspect and analyze the records related to such complaints;

(8) Receive applications for rate increases, if applicable, and provide staff assistance in the analysis and recommendations thereto;

(9) Monitor the grantee's adherence to operational standards, service requirements and line extension policies;

(10) Assure compliance with applicable laws and ordinances;

(11) Arrange tests and analysis of equipment and performance, as needed to insure compliance with this chapter and the franchise;

(12) Assure continuity in service; and

(13) Receive for examination all data and reports required by this chapter.

(C) *Cable TV Advisory Committee.* The town may, in its discretion, establish a cable advisory committee. The duties of this Committee may be reposed in an existing committee. The responsibilities of the Committee shall include, but not be limited to, the following:

(1) Monitor and advise the Council and town administration on the provisions of this chapter and related ordinances;

(2) Serve as an advisory body for the public, educational and governmental access channels of cable television and any institutional programming that may be developed;

(3) Advise the town government of objectives to be obtained in the town's system based upon its continued evaluation of the town's cable television franchise, cable technology and the future cable-related needs and interests of the community;

(4) Prepare an annual report to the Council; and

(5) Cooperate with the town and the grantee in fulfilling its responsibilities herein.

(D) *Interconnectivity.* Upon the request of the town, the grantee shall interconnect its system, for the purpose of sharing public, education or government access channels with any other like cable television facility operating in the town. The grantee further agrees that it will bear its share of the cost of any interconnection. Such costs will be allocated between and among the systems being interconnected in an equitable manner. The grantee may not construct any physical facilities to provide an interconnection with other cable communications or data systems until the plans for such interconnection have been approved by the Council.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.26 RATES AND CHARGES.

(A) *Schedule pilings.* The grantee shall file with the town schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. The grantee shall notify town and subscribers in writing at least 30 days prior to the implementation of any change in services offered, rate charges or terms and conditions related thereto, as may be required by law.

(B) *Non-discriminatory rates.*

(1) To the extent required by applicable federal or state law, the grantee shall establish rates that are nondiscriminatory within the same general class of subscribers which must be applied fairly and uniformly to all subscribers in the franchise area for all services. Nothing contained herein shall prohibit the grantee from offering:

(a) Discounts to commercial and multiple-family dwelling subscribers billed on a bulk basis;

(b) Promotional discounts;

(c) Reduced installation rates for subscribers who have multiple services; or

(d) Discounts for senior citizens and/or low income residents.

(2) To the extent required by federal, state or local law or regulation, the grantee's charges and rates for all services shall be itemized on subscriber's monthly bills.

(C) *Town regulation.* To the extent that federal or state law or regulation and, in particular, § 626 of the Communications Act (47 U.S.C. § 543) and the regulations of the FCC, may now, or as the same may hereafter be amended to, authorize the town to regulate the rates for any particular service tiers, service packages, equipment or any other services provided by the grantee, the town shall have the right to exercise rate regulation to the full extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the town.

(D) *Ability to petition.* If applicable, the town shall have the right to petition the FCC or other appropriate agency or organization to obtain rate regulation authority or to petition the federal body to review or regulate rates in the town.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.27 PERFORMANCE EVALUATIONS.

(A) *Performance evaluations.* The town and the grantee may, at the discretion of the town, hold scheduled performance evaluation sessions. All such evaluation sessions shall be open to the public, to the extent required by law.

(B) Special evaluation sessions shall be held at any time during the term of the franchise at the request of the town.

(C) *Notice of public hearings on performance.* All evaluation sessions before the Council shall be open to the public and announced once in a newspaper of general circulation and announced for five consecutive days on the government access channel.

(D) *Items for review.* Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to, system performance and construction, grantee compliance with this chapter and the franchise, customer service and complaint response, subscriber privacy, services provided, programming offered, service rate structures, franchise fees, penalties, free or discounted services, applications of new technologies, judicial and FCC filings, and line extensions.

(E) *Cooperation.* During the review and evaluation by the town, the grantee shall fully cooperate with the town and shall provide such information and documents as the town may need to reasonably perform its review.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.28 PERFORMANCE BOND.

(A) *Performance bond.* Upon the effective date of the franchise, the grantee shall obtain and maintain during the entire term of the franchise and any extensions and renewals thereof, at its cost and expense, and file with the town, a corporate surety bond in an amount no less than $50,000 and as specified in the franchise agreement to guarantee the faithful performance of the grantee of all its obligations provided under this chapter and the franchise. Failure to timely obtain, file and maintain said bond shall constitute a substantial violation within the meaning of this section.

(B) *Conditions.* The performance bond shall provide the following conditions.

(1) There shall be recoverable by the town jointly and severally from the principal and surety, any and all fines and liquidated damages due to the town and any and all damages, losses, costs and expenses suffered or incurred by the town resulting from the failure of the grantee to: faithfully comply with the provisions of this chapter and the franchise; comply with all orders, permits and directives of any town agency or body having jurisdiction over its acts or defaults; pay fees due to the town; pay any claims, liens or taxes due the town which arise by reason of the construction, operation, maintenance or repair of the cable system. Such losses, costs and expenses shall include, but not be limited to, attorney's fees and other associated expenses.

(2) The total amount of the bond shall be forfeited in favor of the town in the event:

(a) The grantee abandons the cable system at any time during the term of the franchise or any extension thereto; or

(b) The grantee transfers the franchise without the express written consent of the town.

(C) *Reduction of bond.* Upon written application by the grantee, the town may, at its sole option, permit the amount of the bond to be reduced or waive the requirements for a performance bond subject to the following conditions: reductions granted or denied upon application by the grantee shall be without prejudice to the grantee's subsequent applications or to the town's right to require the full bond without notice at any time thereafter. However, no application for reduction shall be made by the grantee within one year of any prior application for reduction of within the first five years of the franchise.

(D) *Use of performance bond.* Prior to drawing upon the performance bond for the purposes described in this section, the town shall notify the grantee in writing by certified or

registered mail, return receipt requested, that payment is due and the grantee shall make a full and complete payment. If the grantee does not make the payment within ten days from the mailing of the notice, the town may withdraw the amount thereof, with interest and penalties, from the performance bond.

(E) *Notification.* Within three days of a withdrawal from the performance bond, the town shall send to the grantee, by certified mail, return receipt requested, written notification of the amount, date and purpose of such withdrawal.

(F) *Replenishment of performance bond.* No later than 30 days after mailing to the grantee by certified mail notification as described in division (D) above of a withdrawal pursuant to division (E) above, the grantee shall replenish the performance bond in an amount equal to the amount so withdrawn. Failure to make timely replenishment of such amount to the performance bond may constitute a substantial violation of this chapter.

(G) *Non-renewal, alteration or cancellation of performance bond.* The performance bond required herein shall be in a form satisfactory to the town and shall require 30 days written notice of any non-renewal, alteration or cancellation to both the town and the grantee. The grantee shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the town, written evidence of the issuance of replacement bond or policies within 30 days following receipt by the town or the grantee of any notice of cancellation, and failure to do so constitutes a substantial violation of this chapter.

(H) *Inflation.* To offset the effects of inflation the amounts of the bond provided for herein, shall be increased by the annual rate of inflation at the end of every three-year period of the franchise, applicable to the next three-year period, upon the request of the town.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.29 LIABILITY AND INSURANCE.

(A) *Certificate of insurance.* Prior to commencement of construction, but in no event later than 60 days after the effective date of the franchise and thereafter, continuously maintain insurance as defined by this section and shall throughout the duration of the franchise and any extensions or renewals thereof, the grantee shall furnish to the town, certificates of insurance, approved by the town, for all types of insurance required under this section. Failure to furnish said certificates of insurance in a timely manner shall constitute a violation of this chapter.

(B) *Filing.* Any insurance policy or certificate thereof obtained by the grantee in compliance with this section shall be filed and maintained with the Town Manager or his or her designee during the term of the franchise, and may be changed from time to time to reflect changing liability limits and/or to compensate for inflation. The grantee shall immediately advise the town of any litigation that may develop that would affect this insurance.

(C) *No limit of liability.* Neither the provisions of this section, nor any damages recovered by the town hereunder, shall be construed to or limit the liability of the grantee under any franchise issued hereunder or for damages.

(D) *Enforcement.* All insurance policies maintained pursuant to this chapter or the franchise shall contain the following, or a comparable, endorsement: “It is hereby understood and agreed that this insurance policy may not be canceled by the insurance company nor the intention not to renew be stated by the insurance company until 30 days after receipt by the

Town Manager, by registered or certified mail, of a written notice of such intention to cancel or not to renew."

(E) *Hold harmless clause.* All contractual liability insurance policies maintained pursuant to this chapter or the franchise shall include the following hold harmless clause: "The grantee agrees to indemnify, save harmless and defend the town, its officials, agents, servants, and employees, and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney's fees, for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to any property, which may arise or which may be alleged to have arisen out of or in connection with the work covered by the franchise and performed or caused to be performed. The foregoing indemnity shall apply except if such injury, death or damage is caused by the negligence or other fault of the town, its agents, servants or employees, or any other person indemnified hereunder."

(F) *State institution.* All insurance policies provided under the provisions of this chapter or the franchise shall be written by companies authorized to do business in the state and approved by the state's Commissioner of Insurance.

(G) *Named insured.* At any time during the term of the franchise, the town may request and the grantee shall comply with such request, to name the town as an additional named insured for all insurance policies written under the provisions of this chapter or the franchise.

(H) *Inflation.* To offset the effects of inflation and to reflect changing liability limits, all of the coverages, limits and amounts of the insurance provided for herein will be increased at the end of every three-year period of the franchise at the annual rate of inflation, applicable to the next three-year period, upon the request of the town.

(I) *General liability insurance.* The grantee shall maintain, and by its acceptance of any franchise granted hereunder specifically agree that it will maintain throughout the term of the franchise, general liability insurance insuring the grantee in the minimum of:

(1) Two million dollars for property damage per occurrence;

(2) Two million dollars for property damage aggregate;

(3) Four million dollars for personal bodily injury or death to any one person; and

(4) Five million dollars for bodily injury or death aggregate per single accident or occurrence.

(J) *Policy inclusions.* Such general liability insurance must include, at a minimum, coverage for all of the following: comprehensive form, premises, operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad-form property damage and personal injury.

(K) *Automobile liability insurance.* The grantee shall maintain throughout the term of the franchise, automobile liability insurance for owned, non-owned, or rented vehicles used by the grantee, its agents, officials, or employees in the minimum amount of:

(1) One million dollars for bodily injury and consequent death per occurrence;

(2) One million dollars for bodily injury and consequent death to any one person; and

(3) Five hundred thousand dollars for property damage per occurrence.

(L) *Worker's compensation and employer's liability insurance.* The grantee shall maintain throughout the term of the franchise, worker's compensation and employer's liability, valid in the state, in the minimum amount of:

(1) Statutory limit for worker's compensation; and

(2) One hundred thousand dollars for employer's liability.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.30 INDEMNIFICATION.

(A) The grantee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the town, its officers, boards and commissions, and town employees against any and all claims, suits, actions, liability and judgments for damages (including, but not limited to, costs and expenses for reasonable legal fees and disbursements and liabilities assumed by the town in connection therewith):

(1) To persons or property, in any way arising out of or through the acts or omissions of the grantee, its servants, agents or employees, or to which the grantee's negligence shall in any way contribute unless caused solely by negligence or other fault of the town, its agents, servants or employees, or any other person indemnified hereunder;

(2) Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation (excluding claims arising out of or relating to town programming); and

(3) Arising out of the grantee's failure to comply with the provisions of any federal, state or local statute, ordinances or regulation applicable to the grantee in its business hereunder.

(B) The foregoing indemnity is conditioned upon the following: the town shall give grantee reasonable notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the town from cooperating with the grantee and participating in the defense of any litigation by its own counsel at its sole cost and expense. No recovery by the town of any sum by reason of the liquidated damages required by this chapter shall be subject to litigation by the company; except that, any sum so received by the town shall be deducted from any recovery which the town might have against the company under the terms of this section.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.31 AUTHORITY TO CONSTRUCT.

(A) *Authorization to commence construction and application procedures.* Within 30 days of the acceptance by the grantee of an initial franchise, the grantee shall apply for any needed contracts for use of poles. Within 30 days after completion of the make- ready survey identifying the routes of the system facility, the grantee shall apply for all additional licenses from the state, town or other necessary parties, such as the railroads for crossing under or over their property. In any event, all necessary applications for permits, licenses, certificates and authorizations shall be applied for in a timely fashion so that such filing and processing shall not interfere with or cause delay with the construction scheduled as outlined in the franchise. Failure to make such timely application and timely filing shall constitute a substantial violation of this chapter.

(B) *Power to contract.* Upon grant of the franchise and in order to construct, operate and maintain a cable system in the town, the grantee may enter into contracts with any public utility companies or any other owner or lessee of any poles or underground areas located within the town; obtain right-of-way permits from appropriate town, state, town and federal officials necessary to cross or otherwise use highways or roads under their respective jurisdiction; obtain permission from the Federal Aviation Administration to erect and maintain antennas; and obtain whatever other permits a town, state or federal agency may require.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.32 CONSTRUCTION AND TECHNICAL STANDARDS.

(A) *Compliance with construction and technical standards.* The grantee shall construct, install, operate and maintain its system in a manner consistent with ail laws, ordinances, construction standards, governmental requirements and FCC technical standards. The grantee, through the system, shall provide uniform, strong signals which are free from any significant distortion and interference. The system shall be designed, constructed, operated and maintained for 24-hours-a-day continuous operation. The system shall produce, for reception on subscribers' receivers which are in good working order, either monochrome or color pictures (providing the receiver is color capable) which are free from any significant interference or distortion which would cause any material degradation of video or audio quality.

(B) *System design.* Any system operating within the town shall at a minimum meet the following.

(1) The system will be spaced to permit a minimum operation, which shall be stated in the franchise agreement and will be capable of utilizing state-of-the-art technology.

(2) The system will utilize converters which will make the system adaptable for the development of future services.

(C) *Poles.* The grantee will comply with the existing permitting process for use of the public ways.

(D) *Contractor qualifications.* Any contractor or subcontractor proposed for work of construction, installation, operation, maintenance and repair of system equipment must be properly licensed under laws of the state and all local ordinances.

(E) *System equipment.* The system erected by the grantee within the town shall be so located as to cause minimum interference with the proper use of the public ways, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways. No pole or other fixtures placed in any public ways by the grantee shall be placed in such a manner as to interfere with normal travel on such public way.

(F) *Maps.* The town does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the location shall be verified by excavation. The grantee may make use of ULOCO or some other utilities location service and at the grantee's expense.

(G) *Quality of construction.* Construction, installation, operation and maintenance of the system shall be performed in an orderly and workmanlike manner, in accordance with then current technological standards. All cables and wires shall be installed, where possible, parallel

with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

(H) *Construction standards.* The grantee shall at all times comply with:

(1) National Electrical Safety Code (National Bureau of Standards);

(2) National Electrical Code (National Bureau of Fire Underwriters);

(3) Bell System Code of Pole Line Construction;

(4) Applicable FCC or other federal, state and local regulations; and

(5) Standards as set forth in the franchise.

(I) *Non-interference.* In any event, the system shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where the grantee may have equipment located.

(J) *Antennas.* Any antenna structure used in the system shall comply with construction, marking and lighting of antenna structure standards as required by federal and state law or regulation.

(K) *OSHA.* All worker facilities, conditions and procedures that are used during construction, installation, operation and maintenance of the cable system shall comply with the standards of the Occupational Safety and Health Administration.

(L) *Standby power.* The grantee shall maintain equipment capable of providing standby power for a minimum of 24 hours for the headend.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.33 SYSTEM CONSTRUCTION SCHEDULE.

The franchise shall specify the construction schedule. Failure to comply with the construction schedule shall constitute a breech of the franchise and this chapter.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.34 EXTENSION OF SERVICE.

The grantee shall provide service to all dwelling units where there are an average of 20 homes per mile. In such cases where residential density does not meet the requirement, consideration will be made for line extensions based on a cost share basis as may be specified in the franchise agreement. The grantee, may not otherwise discriminate against low income or low density areas. For good cause, the grantee may request and the Town Manager may grant reasonable extension of time.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.35 USE OF STREETS.

(A) *Underground installation.* All installations shall be underground in those areas of the town where public utilities providing telephone and electric service are underground at the time of installation. In areas of the town where either telephone or electric utility facilities are above ground at the time of installation, the grantee may install its service above ground;

provided that, at such time as those facilities are required to be placed underground by the town or are placed underground, the grantee shall likewise place its services underground without direct additional cost to the town or to the individual subscribers so served within the town. Where not otherwise required to be placed underground by this chapter or the franchise, the grantee's system shall be located underground at the request of the adjacent property owner, provided that the excess cost over the aerial location shall be borne by the property owner making the request.

(B) *Approvals.* Prior to construction or alteration, the grantee will obtain all required construction permits.

(C) *Interference with persons, improvements, public and private property and utilities.* The system shall be located, erected and maintained so that such facilities shall:

(1) Not endanger or interfere with the health, safety or lives or persons;

(2) Not interfere with any improvements the town, town or state may deem proper to make;

(3) Not interfere with the free and proper use of public ways, except to the minimum extent possible during actual construction or repair;

(4) Not interfere with the rights and reasonable convenience of private property owners, except to the minimum extent possible during actual construction or repair; and

(5) Not obstruct, hinder or interfere with any gas, electric, water or telephone facilities, easements, property rights or other utilities facilities' easements located within the town.

(D) *Restoration to prior condition.* In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the grantee shall, at its own cost and expense and in a manner approved by the town, replace and restore all paving, sidewalk, driveway, landscaping or surface of any street or alley disturbed, consistent with the practices of local utilities. Such restoration shall be undertaken within no more than ten business days after the damage is incurred and shall be completed as soon as possible thereafter. Such closing shall be at the expense of the grantee.

(E) *Private property.* The grantee shall be subject to all laws, ordinances or regulations regarding private property or regulations regarding private property in the course of constructing, installing, operating or maintaining the system. The grantee shall promptly repair or replace all private property, both real and personal, damaged or destroyed as a result of the construction, installation, operating or maintenance of the system at its sole cost and expense.

(F) *Relocation of the facilities.* In the event that at any time during the period of the franchise, the town or state shall lawfully elect to alter, or change, the grade of any street, alley or other public ways, the grantee, upon reasonable notice by the proper authority, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own cost and expense.

(G) *Cooperation with building movers.* The grantee shall, on the request of any person holding a building moving permit issued by the town, temporarily raise or lower its wire to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than 15 working days' advance notice to arrange for such temporary wire changes.

(H) *Tree trimming.* The grantee shall have the authority, except when in conflict with existing town ordinances, or other applicable law, to trim any trees upon and overhanging public right-of-way so as to prevent the branches of such trees from coming in contact with system

facilities; except that, at the option of the town, such trimming may be done by it, or under its supervision and direction, at the expense of the grantee.

(I) *Easements.* All necessary easements over and under private property shall be arranged for by the grantee.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.36 CONSTRUCTION REPORTING REQUIREMENTS.

(A) *Progress report.* Within 30 days of the granting of an initial franchise agreement pursuant to this chapter, the grantee shall provide the town with a written progress report detailing initial construction work completed to date. Such report shall include a description of the progress in applying for any necessary agreements, licenses or certifications and any other information the Town Manager may deem necessary. The content and format of the report will be determined by the Town Manager and may be modified at his or her discretion.

(B) *Time frame for reports.*

(1) Such written progress reports shall be submitted to the Town Manager's office on a monthly basis throughout the entire construction process.

(2) The Town Manager or his or her designee may require more frequent reporting, if he or she determines it is necessary to better monitor the grantee's progress.

(C) *Subscriber information.* Prior to the commencement of initial system construction, the grantee shall produce an informational document to be distributed to all residents of the area to be under construction, which shall describe the activity that will be taking place.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.37 TESTS AND PERFORMANCE MONITORING.

(A) *Tests.* All testing of the system shall be done in accordance with the rules and regulations of the FCC. In addition, the town, in its discretion may require other testing and reports as it determines to be necessary to protect the interests of the citizens of the town and when necessary to ascertain the grantee's compliance with this chapter and the franchise agreement.

(B) *FCC reports.* A copy of any performance test reports required by the FCC shall be submitted to the town upon request and with reasonable notice.

(C) *Complaints.* Whenever there have been similar complaints made or when there exists other evidence, which, in the reasonable judgment of the town, casts doubt on the reliability or quality of the grantee's system, the town shall have the right and authority to compel the grantee to test, analyze and report on the performance of its system. The town may require additional tests, full or partial repeat tests, different test procedures or tests involving a specific subscriber's terminal. Reports on such tests shall be delivered to the town no later than 30 days after the town formally notifies the grantee and shall include the following information: the nature of the complaints which precipitated the special tests; what system component was tested; the equipment used, and procedures employed in said testing; the results of such tests; and methods by which said complaints were resolved. Said tests and analyses shall be supervised by

an engineer who shall sign all records of the special tests and forward same to the town with a report interpreting the results of the tests and recommending what actions should be taken by the town. All such tests shall be at the expense of the grantee.

(D) *Consultants.* The town shall have the right, at its expense, to employ or contract with qualified consultants and attorneys if necessary or desirable, to assist in the administration of this, or any other section of this chapter or the franchise.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.38 GENERAL SERVICE STANDARDS.

The town reserves the right to enforce all relevant service rules and regulations as set forth by federal, state and local governments. These rules and regulations include, but are not limited to, FCC customer service regulations, as hereafter amended by the FCC, and the town's rate and service regulations, as hereafter amended by the town from time to time.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.39 SERVICES TO SUBSCRIBERS AND USERS.

(A) *Service.* Concurrently with the activation of the system in the town, the grantee shall provide all services to subscribers as described herein and as specified in the franchise agreement at rates detailed in the rate schedule.

(1) The system shall carry the broad categories of programming and services listed in the franchise. Should the grantee desire to change the selection of programs or services offered on any of its tiers, it shall maintain the mix, quality and level of services provided over the system. Any such change in programs or services offered shall comply with the conditions and procedures contained in the franchise, and shall be reported to the town at least 30 days prior to the proposed implementation. The grantee shall use its good faith efforts to ensure diversity of programming.

(2) Basic service shall be offered to subscribers throughout the term of this chapter and the franchise.

(3) The grantee shall provide at the town's request and maintain at grantee's sole cost, as specified in the franchise agreement, the following access channels:

(a) Government access channel;

(b) Educational access channel; and

(c) Public access channel.

(4) The grantee shall make available leased access channels, as required by federal law.

(5) The grantee shall fully provide, at a minimum, the services, facilities and equipment for public, educational and government access as indicated in the franchise.

(B) *Emergency override.* The grantee shall, without charge, provide, service and maintain public emergency override facilities to the town, as described in the and as prescribed by the Communications Act and the FCC.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.40 INSTALLATIONS, CONNECTIONS AND OTHER GRANTEE SERVICES.

(A) *Standard installations.* Standard installation shall consist of a service not exceeding 200 feet from a single point or pedestal attachment to the customer's residence. Service drops in excess of 200 feet and concealed wiring in the home shall be charged to the subscriber based upon time and material. The desire of the subscriber as to the point of entry into the residence shall be observed whenever possible. Runs in building interiors shall be as unobtrusive as possible. The grantee shall use due care in the process of installation and shall repair any damage to the subscriber's property caused by said installation. Such restoration shall be undertaken within no more than ten days after the damage is incurred and shall be completed as soon as possible thereafter.

(B) *Deposits.* Any deposit required by grantee of subscribers shall bear interest at a rate consistent with other service providers that require deposits, which interest shall belong to the subscriber.

(C) *Antennas and antenna switches.* The grantee shall not, as a condition to providing cable service, require any subscriber or potential subscriber, to remove any existing antenna structures for the receipt of over-the-air television signals. The grantee shall install, upon the request of the subscriber, an RF or antenna switch where required for the provision of services provided by the grantee as required by federal law.

(D) *Lockout devices.* The grantee shall provide to the potential subscriber, as part of its installation literature, information concerning the availability of a lockout device for use by a subscriber. The grantee may require a reasonable deposit or purchase price for the use of this device, as set forth in the rate schedule. The lockout device described herein shall be made available to all subscribers requesting it beginning on the first day that any cable service is provided.

(E) *Reconnection.* The grantee shall restore service to subscribers wishing restoration of service provided subscriber shall first satisfy any previous obligations owed.

(F) *Free disconnection.* Subscribers shall have the right to have cable service disconnected without charge. Such disconnection shall be made as soon as practicable and in no case later than 15 days following notice to grantee of same. A refund of unused service charges shall be paid to the customer within 30 days from the date of termination of service.

(G) *Delinquent accounts.* The grantee shall use all reasonable efforts to collect on delinquent subscriber accounts. In all cases, the grantee shall provide the subscriber with at least ten working days written notice prior to disconnection. The fee for reconnection shall not exceed the fee for a new connection.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.41 CUSTOMER SERVICE STANDARDS.

(A) The company shall establish, operate and maintain in the town a business office and maintenance and repair facility for the purpose of receiving inquiries, requests and complaints concerning all aspects of the construction, installation, operation and maintenance of the system and for the payment of subscribers' service charges.

(B) The grantee shall have a listed, local, toll-free, or collect telephone number for service calls and such telephone service shall be available 24 hours a day, seven days a week

according to FCC guidelines. Said number shall be made available to subscribers and the general public.

(C) The grantee shall respond to and resolve subscribers' complaints or requests for service in connection with repairs and maintenance and malfunctions of system facilities. The grantee shall respond as quickly as possible to such complaints and requests, but shall in any case respond within the guidelines published by the FCC. Complaints or requests which may pose a potential health and safety hazard will be responded to immediately, following notification of the grantee. In connection with billing complaints, the grantee shall respond within time frame established by the FCC.

(D) The grantee shall prepare and file with the town copies of all of its rules and regulations in connection with the handling of inquiries, requests and complaints. The grantee shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints and furnish information concerning the town office responsible for the administration of the franchise, including, but not limited to, the address and telephone number of said office.

(E) The grantee shall keep full records, as prescribed by the FCC, in connection with customer service standards.

(F) The town may review and monitor unresolved customer complaints.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.42 CONTINUITY OF SERVICE MANDATORY.

(A) It shall be the right of all subscribers to receive continuous, uninterrupted service insofar as their financial and other obligations to the grantee are honored.

(B) In the event that the grantee elects to rebuild, modify or sell the system, or the town gives notice of intent to terminate or fails to renew its franchise, the grantee shall cooperate with the town or new grantee or operator in maintaining continuity of service to all subscribers for a period of six months or such other time as mutually agreed upon. During such period, the grantee shall be entitled to the revenues for any period during which it operates the system and shall be entitled to reasonable costs for the services when it no longer operates the system.

(C) *Failure to provide continuity.* In the event the grantee fails to operate the system for seven consecutive days without prior approval of the town or without just cause, the town may, at its option, operate the system or designate an operator until such time as grantee restores service under conditions acceptable to the town or a permanent operator is selected. If the town is required to fulfill this obligation for the grantee, the grantee shall reimburse the town for all reasonable costs or damages incurred by the town as a the result of the grantee's failure to perform.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.43 PROTECTION OF SUBSCRIBER PRIVACY MANDATORY.

The grantee shall, at all times, protect the privacy of subscribers, as provided in this chapter and other applicable federal, state and local laws and, in particular, § 631 of the Communications Act (47 U.S.C. § 551).

(Ord. 1998-9-1, passed 9-15-1998) Penalty, see § 114.99

§ 114.44 RIGHTS OF INDIVIDUALS.

The grantee shall not deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of race, color, religion, national origin, age, sex or handicap; provided, the subscriber shall pay all applicable fees for the service desired. The grantee shall comply at all times with all other applicable federal, state and local laws and regulations, and all executive and administrative orders relating to non-discrimination which are hereby incorporated and made part of this chapter by reference.
(Ord. 1998-9-1, passed 9-15-1998) Penalty, see § 114.99

§ 114.45 BOOKS AND RECORDS AVAILABLE TO THE GRANTOR.

(A) The grantee shall maintain an office within the town. The town shall have the right to inspect at any time during normal business hours, all books, records, maps, plans, income tax returns, financial statements, service complaint logs, performance test results and other like materials of the grantee when necessary to ascertain the grantee's compliance with this chapter or the franchise agreement. Access to the aforementioned records shall not be denied by the grantee on the basis that said records contain "proprietary" information.

(B) The grantee shall permit any duly-authorized representative of the town to examine and copy or transcribe any and all maps and other records kept or maintained by grantee or under its control concerning the operations, finances, affairs, transactions or property of grantee. If any of such maps or records are not kept in the town, or upon reasonable request made available in the town, and, if the town shall determine that an examination of such maps or records is necessary or appropriate to the performance of any of their duties, then all travel and maintenance expenses necessarily incurred in making such examination shall be paid by grantee.
(Ord. 1998-9-1, passed 9-15-1998) Penalty, see § 114.99

§ 114.46 REPORTS REQUIRED.

The grantee shall file with the town, upon reasonable request:

(A) *Regulatory communications.* All reports required by the Federal Communications Commission (FCC) including, but not limited to, annual proof of performance tests and results, and equal employment opportunity (EEO) reports, and all petitions, applications and communications of all types submitted by the grantee to the FCC, the Security and Exchange Commission (SEC), or any other federal or state regulatory commission or agency, having jurisdiction over any matter affecting operation of the grantee's system;

(B) *Facilities report.* An annual report setting forth the physical miles of plant construction and plant in operation during the fiscal year will be made available at the local office of the cable operator for review by town officials as needed and upon reasonable request;

(C) *Construction reports.* Construction reports shall be sent to the town 30 days after the initial franchise agreement is awarded and monthly thereafter until construction is completed as specified in this chapter;

(D) *Proof of performance tests.* Proof of performance test results performed as required by the FCC shall be supplied to the town upon request;

(E) *Test required by town.* Tests required by town as specified in this chapter shall be submitted within 30 days of notification;

(F) *Grantee rules.* The grantee's schedule of charges, contract or application forms of regular subscriber service policy regarding the processing of subscriber complaints, delinquent subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the grantee's policy in connection with its subscribers shall be in accordance with applicable state and federal laws, rules or regulations;

(G) *Proof of bonds and insurance.* The grantee shall submit to the town the required performance bond, or a certified copy thereof, and insurance certificates as required under the terms and conditions described in this chapter;

(H) *Financial and ownership reports.* The following financial reports for the franchise area shall be submitted to the town, upon reasonable notice and as required by the town:

(1) A statement of gross annual revenues verifying all revenues from the town franchise as certified by the vice president for finance; and

(2) An annual list of officers and members of the board of the grantee and of any parent corporation.

(I) *Additional reports.* The grantee shall prepare and furnish to the town at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions or property, as may be reasonably necessary and appropriate to ascertain grantee's compliance with this chapter or the franchise agreement.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.47 RECORDS REQUIRED.

The town may, from time to time, impose reasonable requests for information, records and documents as may be reasonably necessary and appropriate to ascertain the grantee's compliance with this chapter or the franchise agreement.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.48 PUBLIC NOTICE.

Public notice of any public meeting relating to this chapter or the franchise shall be in compliance with the town's public notice requirements.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.49 CAPTIONS.

The captions to sections throughout this chapter are intended solely to facilitate reading and reference to the sections and provisions of this chapter. Such captions shall not affect the meaning or interpretation of this chapter.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.50 FRANCHISE APPLICATIONS.

(A) Applicants for an initial franchise shall submit to the town, a written application utilizing the standard format provided by the town, at the time and place designated by the town for accepting applications. The application shall include, at a minimum, the following:

(1) The applicant's proper business, corporate or partnership name;

(2) If a corporation, the applicant shall also state the corporation's process agent address for service of notice, provide a certified copy from the state's Secretary of State of authorization to do business in the state;

(3) If a partnership, application shall also contain names and addresses of all partners, names and addresses of general partner(s) responsible for overseeing the management of the franchise;

(4) Financial statement certified by a certified public accountant;

(5) Insurance bonds and certificates; and

(6) Any other material required by this chapter or reasonably requested by the town.

(B) In awarding a franchise, the town shall enter into agreement with franchisee upon any reasonable conditions it may require and subject to the provisions of this chapter and applicable law.

(C) An application fee in the amount of $6,000 shall be paid for each initial franchise at the time of application for franchise, which fee shall be in the form of cash, certified check or money order to defer the cost of studying, investigating and otherwise processing such application and which shall be in consideration thereof and not refundable or returnable in whole or in part. To offset the effects of inflation, the amount of the application fee provided for herein, is subject to reasonable increase in accord with the annual rate of inflation as decided by the Council.

(D) Any administrative fee associated with the renewal of a franchise agreement shall be negotiated in the renewed franchise agreement.

(E) Any conditions attached to the payment of an application fee shall be enumerated in the franchise agreement.
(Ord. 1998-9-1, passed 9-15-1998)

§ 114.51 PUBLIC HEARINGS.

Whenever a public hearing is required by this chapter and related communications ordinances, the public hearing must be advertised in a newspaper with general circulation within the town at least ten working days before the hearing, the hearing shall be open to the public and provide for public comment and any reliable, relevant evidence that is not unduly repetitive shall be admissible.

(Ord. 1998-9-1, passed 9-15-1998)

§ 114.99 PENALTY.

Failure to comply with the provisions of this chapter shall subject the grantee to all penalties provided by law and as enumerated in the franchise agreement.
(Ord. 1998-9-1, passed 9-15-1998)

TITLE XIII: GENERAL OFFENSES

Chapter
130. OFFENSES AGAINST PUBLIC MORALS
131. WEAPONS

CHAPTER 130: OFFENSES AGAINST PUBLIC MORALS

Section
130.01 Consumption of beer and wine
130.02 Sale or consumption of alcoholic beverages and other acts and conduct upon premises of poolrooms and billiard halls
130.03 Poolrooms and minors

130.99 Penalty

§ 130.01 CONSUMPTION OF BEER AND WINE.

It shall be unlawful for any person to consume any wine or beer upon any public street or upon the premises of any business establishment other than where said wine or beer was purchased.
(Ord. 1971-9-1, passed 9-15-1971) Penalty, see § 130.99

§ 130.02 SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND OTHER ACTS AND CONDUCT UPON PREMISES OF POOLROOMS AND BILLIARD HALLS.

It shall be unlawful for the keeper or owner of any poolroom or billiard hall to sell, permit to be sold, consume or permit to be consumed any alcoholic beverages, or permit any form of gambling in and upon the premises of such poolroom or billiards hall, or permit said premises to become disorderly or permit said premises to become a nuisance, as defined in G.S. § 19-1.
(Ord. 1969-11-1, passed 11-19-1969) Penalty, see § 130.99

§ 130.03 POOLROOMS AND MINORS.

It shall be unlawful for the keeper or owner of any poolroom or billiard hall to allow any minor under 18 years of age to enter or remain in such poolroom or billiard hall if the keeper or

owner of any poolroom or billiard hall sells, permits to be sold, consumes or permits to be consumed, any alcoholic beverage.
(Ord. 1969-9-1, passed 9-17-1969) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating the provisions of § 130.01 of this chapter or failing, neglecting or refusing to comply with same, upon conviction, shall be guilty of a misdemeanor and subject to a fine not to exceed $50, or imprisonment not to exceed 30 days, or both, and each day that § 130.01 of this chapter is violated shall constitute a separate offense.

(C) Any person violating the provisions of § 130.02 of this chapter or failing, neglecting or refusing to comply with same, upon conviction, shall be guilty of a misdemeanor and subject to a fine not to exceed $50, or imprisonment not to exceed 30 days, or both, and each day that § 130.02 of this chapter is violated shall constitute a separate offense.

(D) Any person violating the provisions of § 130.03 of this chapter or failing, neglecting or refusing to comply with same, upon conviction, shall be guilty of a misdemeanor and subject to a fine not to exceed $50, or imprisonment not to exceed 30 days, or both, and each day that § 130.03 of this chapter is violated shall constitute a separate offense.
(Ord. 1969-9-1, passed 9-17-1969; Ord. 1969-11-1, passed 11-19-1969; Ord. 1971-9-1, passed 9-15-1971)

CHAPTER 131: WEAPONS

Section

131.01 Hunting deer within town limits
131.02 Firearms
131.03 Concealed weapons on municipal property
131.04 Trapping, hunting, shooting or killing birds

131.99 Penalty

§ 131.01 HUNTING DEER WITHIN TOWN LIMITS.

(A) *General purpose.*

(1) This section shall permit the hunting of white-tailed deer within the town limits only on private property using a bow and arrows during the archery and urban archery seasons established annually by the state's Wildlife Resources Commission. All other game, large or small, as defined by the state's Wildlife Commission, may not be legally hunted, trapped or harvested within the town limits.

(2) Participation by the town in the urban archery season as established by the state's Wildlife Resources Commission must be renewed annually by the town. The town may elect not to participate in any given year; therefore, it is a requirement of this section that each hunter must verify the town's participation in the urban archery season with the state's Wildlife Commission each year.

(B) *Bow hunting within town limits.* Hunters may fire a manual bow and arrows for the sole purpose of hunting deer within the town limits only as permitted by this section.

(1) Hunters shall follow all federal, state and local laws, including all rules and regulations promulgated by the state's Wildlife Resources Commission.

(2) Hunters must have in their possession, while hunting, a valid state hunting license issued by the state's Wildlife Resources Commission.

(3) Hunters may hunt deer only with manual bow and arrows, including longbows, recurved bows or compound bows; the use of cross- bows, firearms (as defined in § 131.02 of this chapter) or any other method of harvesting deer is expressly prohibited.

(4) Hunting, as allowed by this section, may take place only during the archery and urban archery seasons as defined annually by the state's Wildlife Resources Commission.

(5) Hunting is allowed only on a tract or parcel of land that is greater than five acres in size. Common ownership of contiguous tracts or parcels of land less than five acres in size may be combined to satisfy the tract/parcel size required herein as long as such combination equals at least five acres in size.

(6) Hunting is not permitted within 250 feet of any residential dwelling, governmental property, school, church, commercial building, occupied structure, street, park or other recreational area. In addition, no arrow shall be discharged within 250 feet of the boundary line of any property where hunting is permitted.

(7) Landowners may hunt on their own property subject to the provisions of this section. Persons may hunt on another's property subject to the provisions of this section only when possessing written permission from the property owner dated within the prior 12 months. A copy of said written permission shall be in the possession of the hunter at all times while hunting.

(8) Hunters shall make every reasonable effort to track wounded deer for the purpose of completing the harvest and recovering the carcass, and must at all times exercise reasonable regard for the safety and property of other persons.

(Ord. passed 1-20-2015) Penalty, see § 131.99

§ 131.02 FIREARMS.

(A) It shall be unlawful for any person to fire, shoot or discharge within the town limits explosive weapons including, but not limited to, any gun, rifle, pistol or other similar device which impels with a force a shot or slug, except in the following circumstances:

(1) In defense of life or property;

(2) Eradication of pests by a landowner when said pests have a history of damage to person or property or the landowner has a reasonable fear that damage will be caused to person or property. Such eradication of pests is permitted only with the use of limited range arms, such as shotguns, and must be without the use of slugs or buckshot;

(3) By law enforcement officers in the performance of their duty;

(4) By persons lawfully engaged in pest control; and/or

(5) Upon a public or private shooting range approved by a resolution of the Town Council after due consideration of the size of the parcel of land to be put to such use, the proximity of such land to dwellings and businesses, the direction of fire proposed for firearms upon the range and the sufficiency of any earthen or other backstop and side enclosures in the vicinity of the target area.

(B) It shall be unlawful to brandish or display in a threatening manner any firearm or dangerous weapon on any street, sidewalk, alley or other public property within the town, except as necessary and consistent with those conditions that would allow lawful discharge of such firearms or weapons pursuant to the provisions of this section.

(Ord. 2011-4-1, passed 4-19-2011) Penalty, see § 131.99

§ 131.03 CONCEALED WEAPONS ON MUNICIPAL PROPERTY.

(A) *General.*

(1) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MUNICIPAL PROPERTY. Any public building, public office or grounds or parking lots of such buildings or offices in the legal possession or control of the town.

WEAPON. Any gun, rifle, pistol, revolver, shotgun, handgun or other firearm of any kind, any sword, machete, switchblade knife or other deadly weapon of like kind.

(2) It shall be unlawful for any person to possess or carry, whether openly or concealed any weapon on municipally-owned property. The Town Manager is authorized and instructed to post appropriate conspicuous signage on municipal property, in accordance with the law.

(3) This section shall not apply to:

(a) A weapon used solely for:

1. Town- or county-sanctioned ceremonial purposes;

2. Used solely in a town- or county-approved program conducted under the supervision of a person who has been approved by town or county authority; and/or

3. Possessed solely for personal protection by a person and securely locked in a vehicle in a parking lot in the possession or control of the town.

(b) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms;

(c) Civil officers of the United States when acting in the discharge of their official duties;

(d) Officers and soldiers of the national guard when called into actual service; and/or

(e) Sworn law enforcement officers.

(B) *Concealed handguns prohibited.*

(1) In accordance with G.S. §§ 14-415.11(c) and 14-415.23, carrying a concealed handgun is prohibited in all town buildings and their appurtenant premises. Carrying a

concealed handgun is also prohibited at town athletic fields and their appurtenant facilities during organized athletic events for which a person or organization scheduled the athletic field for use with the Town Manager or Park Superintendent. The term ***DURING*** shall be construed to mean the period of time in which such athletic field is used for the organized athletic event and a one-hour period before and after that athletic event. This prohibition shall apply to the following town athletic fields: all athletic fields at Jamestown Park.

(2) Carrying a concealed handgun is also prohibited at any town facility used for athletic events, which shall include the following facilities: Jamestown Park Golf Course and Clubhouse.

(3) The provisions of divisions (B)(1) and (B)(2) above shall not prohibit a person who is lawfully permitted to carry a concealed weapon, while bearing said permit in his or her possession, from securing and keeping a handgun in a locked vehicle within the trunk, glove box or other enclosed compartment or area within or on a motor vehicle.

(4) The Town Manager or his or her designee is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within each building or portion of a building owned, leased, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to such buildings, indicating that carrying a concealed handgun is prohibited therein as provided by state law.

(5) (a) Signs on buildings, facilities, golf course and fields shall be visibly posted at or near the exterior of each entrance by which the general public can access the building.

(b) The Town Manager or his or her designee shall exercise reasonable discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises of such buildings, facilities, golf course and fields.

(6) This prohibition shall not apply to the following persons:

(a) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry weapons;

(b) Civil officers of the United Sates while in the discharge of their official duties;

(c) Officers and soldiers of the militia and the National Guard when called into actual service;

(d) Officers of the state, or of any county, city or town, charged with the execution of the law of the state, when acting in the discharge of official duties; and

(e) Sworn law enforcement officers when off duty if such weapon is carried in compliance with the regulations of their agency, as provided by state laws.

(Ord. 2011-2-2, passed 2-15-2011; Ord. 2011-2-2, passed 4-15-2014) Penalty, see § 131.99

§ 131.04 TRAPPING, HUNTING, SHOOTING OR KILLING BIRDS.

(A) The area embraced within the corporate limits of the town is hereby designated as a “bird sanctuary”.

(B) It shall be unlawful to trap, hunt, shoot or otherwise kill, within the sanctuary established by division (A) above, any domestic or wild bird; provided that, in accordance with G.S. § 160A-188, it shall be lawful to trap, hunt, shoot or otherwise kill starlings, Englist

sparrows, blackbirds (except red wing blackbirds) and other birds having an “unprotected” status under the law. Division (A) above shall not apply to the shooting of game birds in season.

(C) The garden clubs of the town are hereby granted permission to erect such artistic signs, giving notice of the regulations herein provided, at such places and of such design as may be approved by the Town Council.

(Ord. 1976-7-1, passed 7-21-1976) Penalty, see § 131.99

§ 131.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Each violation of § 130.01 of this chapter shall result in a fixed civil penalty charge in the amount of $250. Any such violation shall not constitute a misdemeanor or infraction punishable under G.S. § 14-4, but instead shall be subject to the civil penalties stated herein and the civil remedies provided by G.S. § 160A-175. The Town Manager, or his or her designee, is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including any additional civil penalty due to delinquency, has not been paid. Citations may be issued by the Town Manager, or his or her designee, or any local law enforcement agent or the state’s Wildlife Resources Commission agent.

(2) The civil penalties imposed herein and the proceeds therefrom, as collected by payment, civil action or otherwise, shall belong to the town and shall be paid into the General Fund of the town under such conditions, if any, as prescribed in the annual budget of the town.

(3) In addition to the civil penalties set out above, any provision of § 130.01 of this chapter or any other town ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.

(4) In addition to the civil penalties set out above, any provision of § 130.01 of this chapter or any other town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by the general court of justice. When a violation of such a provision occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general, and Rule 65 in particular.

(5) The provisions of § 130.01 of this chapter and any other town ordinances may be enforced by one, all or a combination of the remedies authorized and prescribed by this division (B).

(6) (a) Upon determination of a violation of § 130.01 of this chapter, the penalty for which is or may be a civil penalty, the town may, but is not required to, cause a warning citation to be issued to the violator. Such citation shall set out the nature of the violation, the section violated and the date of the violation and shall contain an order to cease the violation immediately, if the violation is in the nature of an infraction for which an order of abatement

would be appropriate in a civil proceeding, a reasonable period of time may be stated within which the violation must be abated. The warning citation may specify that a second citation shall incur a civil penalty, together with costs and attorney fees.

(b) Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the appropriate official of the town and either served directly on the violator, his or her duly designated agent, or the registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the town or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of such citation. The citation shall direct the violator to pay the amount stated on the citation within 15 days of the date of the citation.

(c) If the violator fails to respond to a citation within 15 days of it issuance and pay the penalty prescribed therein, the town may institute a civil action in the nature of debt in the appropriate division of the general court of justice for the collection of the penalty, costs, attorney fees and such other relief as permitted by law. All fees shall be paid at the Town Hall.

(C) Violation of the provisions of § 131.02 of this chapter, or failure to comply with any of its requirements, shall constitute a misdemeanor. Any person who violates § 131.02 of this chapter, or fails to comply with any of its requirements, shall, upon conviction thereof, be fined not more than $50 or imprisoned for not more than 30 days and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(D) A violation of § 131.03 of this chapter is punishable as provided by G.S. § 14-415.21.

(E) The violation of § 131.04 of this chapter shall constitute a misdemeanor punishable, upon conviction, by a fine not to exceed $25, as provided in G.S. § 14-4.
(Ord. 1976-7-1, passed 7-21-1976; Ord. 2011-2-2, passed 2-15-2011; Ord. 2011-4-1, passed 4-19-2011; Ord. 2011-2-2, passed 4-15-2014; Ord. passed 1-20-2015)

TITLE XV: LAND USAGE

Chapter

150. TOWN LAND USE ORGANIZATIONS
151. HOUSING
152. PLUMBING
153. LAND DEVELOPMENT ORDINANCE

CHAPTER 150: TOWN LAND USE ORGANIZATIONS

Section

County Joint Historic Properties Commission

150.01 Purpose
150.02 Creation
150.03 Representation
150.04 Tenure
150.05 Attendance of meetings
150.06 Meetings
150.07 Rules of procedure
150.08 Quorum and vote required for recommendation
150.09 Private interest of members
150.10 Commission powers
150.11 Designation of historic properties
150.12 Criteria for Commission review
150.13 Conditions for certain approvals
150.14 Required data
150.15 Authority to acquire historic properties
150.16 Receipt and expenditure of funds
150.17 Staff and technical services
150.18 Ownership of property
150.19 Subchapter to apply to publicly-owned buildings and structures
150.20 Conflict with other laws
150.21 Remedies

Cross-reference:

Land Development Ordinance, see Ch. 153

COUNTY JOINT HISTORIC PROPERTIES COMMISSION

§ 150.01 PURPOSE.

(A) The historical heritage of the county is one of its most valued and important assets. Conservation of historic properties will stabilize and increase the values in their areas and strengthen the overall economy of the county and state.

(B) By means of listing, regulation and acquisition of historic properties Gibsonville, Greensboro, Guilford County, High Point and Jamestown seek, within their respective zoning jurisdictions:

(1) To safeguard its heritage by preserving any property therein that embodies important elements of its cultural, social, economic, political or architectural history; and

(2) To promote the use and conservation of such property for the education, pleasure and enrichment of the residents of the county and state as a whole.

(Ord. 1980-10-1, passed 10-21-1980)

§ 150.02 CREATION.

There is hereby established, by authority of G.S. Ch. 160A, Art. 19, Part 3B, the county's Joint Historic Properties Commission, hereafter referred to as the "Historic Properties Commission" or "Commission", to consist of 11 members with four appointed by the county's Commissioners, three appointed by the Greensboro City Council, two appointed by the High Point City Council, one appointed by the Gibsonville Town Council and one appointed by the Jamestown Town Council. The Commission shall serve without monetary compensation. In establishing the Commission and making appointments to it, the above-named board and councils may seek the advice of such state or local historical agencies, societies or organizations as it may deem necessary.

(Ord. 1980-10-1, passed 10-21-1980)

§ 150.03 REPRESENTATION.

All members of the Historic Properties Commission shall be residents of the county and each shall reside within the jurisdiction of the board or council appointing them representative. A majority of the members shall have demonstrated special interest, experience or education in history or architecture.

(Ord. 1980-10-1, passed 10-21-1980)

§ 150.04 TENURE.

Members of the Historic Properties Commission shall serve overlapping terms of four years. Initially, two appointees by the county, and one appointee each from Gibsonville, Greensboro, High Point and Jamestown shall be for two years. Thereafter, all appointments shall be for a term of four years. A member may be reappointed for a second consecutive term, but after two consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of the termination of his or her second term. Appointments to any

vacancy shall be for the remainder of the term of the vacant position for which the appointment is made.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.05 ATTENDANCE OF MEETINGS.

Any member of the Historic Properties Commission who misses more than three consecutive regular meetings or more than one-half the regular meetings in a calendar year without excuse granted by the Commission shall lose his or her status as a member of the Commission and shall be replaced or reappointed by the appropriate governing board or council pursuant to §§ 150.02 and 150.04 of this chapter.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.06 MEETINGS.

The Historic Properties Commission shall hold meetings regularly at least once each month unless there is not sufficient business to warrant a meeting; but, not more than 60 days shall expire without a regular or special meeting of the Commission. All meetings shall be held in accordance with the state's Open Meetings Law, G.S. Ch. 143, Art. 33C. Reasonable notice of the time and place thereof shall be given to the public.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.07 RULES OF PROCEDURE.

The Historic Properties Commission shall adopt rules of procedure for the conduct of its business, and an annual written report shall be prepared and submitted to the county's Board of Commissioners, the Gibsonville and Jamestown Town Councils, and the Greensboro and High Point City Councils. Such report shall include a comprehensive and detailed review of the activities, problems and actions of the Commission as well as any budget requests or recommendations. The Commission shall keep a record of its members' attendance and of its resolutions, findings and recommendations, which record shall be a public record.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.08 QUORUM AND VOTE REQUIRED FOR RECOMMENDATION.

Six members of the Commission shall constitute a quorum. The concurrence of at least a majority of those members present will be required before any recommendation or action is made on any matter considered.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.09 PRIVATE INTEREST OF MEMBERS.

No member of the Commission may discuss, advocate or vote on any matter in which he or she has a separate, private or monetary interest, either direct or indirect, and no member may discuss before a governing Board or Council any matter which has been, is or will be considered by the Commission on which he or she serves, and in which he or she has a separate, private or monetary interest, either direct or indirect. Any member who violates this provision may be subject to removal from the Commission.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.10 COMMISSION POWERS.

The Historic Properties Commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this subchapter:

(A) Recommend to the county's Board of Commissioners, the Gibsonville and Jamestown Town Councils and the Greensboro and High Point City Councils, buildings, structures, sites, areas or objects within the corresponding zoning jurisdiction to be designated by ordinance as "historic properties";

(B) Acquire, by any lawful means, the fee or any lesser included interest, including options to purchase, to any such historic properties, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;

(C) Restore, preserve and operate such historic properties;

(D) Recommend to the board or council that designation of any building, structure, site, area or object as a historic property be revoked or removed;

(E) Conduct an educational program on historic properties within its jurisdiction;

(F) Cooperate with the state, federal and local governments in pursuance of the purposes of this subchapter. The Commission, when authorized by the local governing board and councils, may contract with the state, the United States of America or any agency or with any other organization; provided, the terms are not inconsistent with state or federal law;

(G) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof;

(H) Act as, establish or designate a group, body or committee to give advice to property owners concerning the treatment of the historical and visual characteristics of their properties such as color schemes, gardens and landscape features and minor decorative elements;

(I) Take steps, during the period of postponement of demolition or alteration of any historic property, to ascertain what the local governing board or councils can or may do to preserve such properties including consultation with private civic groups, interested private citizens, and other public boards or agencies and including investigation of potential acquisition by the local board or councils when the preservation of a given historic property is clearly in the interest of the general welfare of the community and such property is of certain historic and architectural significance;

(J) Propose to the local governing boards and councils changes to this subchapter or any other ordinance and propose new ordinances or laws relating to historic properties or relating to a total program for the protection and/or development of the historic resources of the county, the municipalities therein and their environs;

(K) Communicate with other boards or commissions or with agencies of the local government or other governmental units to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest;

(L) Publish information about, or otherwise inform the public of, any matters pertinent to its purview, duties, organization, procedures, responsibilities, functions or requirements as its budget may allow;

(M) Report violations of this subchapter, the zoning ordinances or the Building Code with respect to historic properties of the zoning enforcement officer of the governmental jurisdiction within which the historic property is located;

(N) Accept funds granted to the Commission for preservation purposes from private individuals and organizations;

(O) Organize itself and conduct its business; and

(P) Any other powers as allowed by law.

(Ord. 1980-10-1, passed 10-21-1980)

§ 150.11 DESIGNATION OF HISTORIC PROPERTIES.

(A) *General.*

(1) Upon compliance with the procedures set out in division (D) below, the county's Board of Commissioners, the Gibsonville and Jamestown Town Councils and the Greensboro and High Point City Councils may adopt and from time to time amend or repeal an ordinance designating one or more historic properties. The ordinance shall describe each property designated therein, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural and/or archaeological value, including the approximate area of surrounding land, and any other information the appropriate board or council deems necessary within the authority of this subchapter.

(2) For each building, structure, site, area or object designated as a historic property, the ordinance shall require that the waiting period set forth in division (E) below be observed prior to its demolition, material alteration, remodeling or removal. For each designated historic property, the ordinance shall also provide for a suitable sign on the property that the property has so been designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way.

(B) *Criteria for designation.* No property shall be recommended for designation as a historic property unless it is deemed and found by the Historic Properties Commission to be of special significance in terms of its history, architecture and/or cultural design, setting, workmanship, feeling and/or association.

(C) *Inventory.* An inventory of all properties of historical, architectural and archaeological significance has been completed for the county, High Point, Jamestown, Greensboro and Gibsonville. The inventory shall serve as a guide for the identification, assessment and designation of historic properties.

(D) *Required procedures.* No ordinances designating a historic building, structure site, area or object nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the Historic Properties Commission or the local board or council until the following procedural steps have been taken.

(1) The Historic Properties Commission shall prepare and adopt rules of procedure, and prepare and adopt principles and guidelines, not inconsistent with this subchapter, for altering, restoring, moving or demolishing properties designated as historic.

(2) The Historic Properties Commission shall make or cause to be made an investigation and report on the historic, architectural, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. Such investigation or report shall be forwarded to the Division of Archives and History, State Department of Cultural Resources.

(3) The Department of Cultural Resources, acting through any employee designated by the Secretary of the state's Historical Commission shall either, upon request of the Department or at the initiative of the Historic Properties Commission, be given an opportunity to review and comment upon the substance and effect of the designation of any historic property pursuant to this subchapter. Any comments shall be provided in writing. If the Department does not submit its comments or recommendations in connection with any designation within 30 days following receipt by the Department of the investigation and report of the Commission, the Commission and any city or county governing board shall be relieved of any responsibility to consider such comments.

(4) The Commission and the local board or council shall hold a public hearing on the proposed ordinance of designation. Reasonable notice of the time and place thereof shall be given.

(5) Following the joint public hearing, the local board or council may adopt the ordinance of designation as proposed, adopt the ordinance with any amendments it deems necessary or reject the proposed ordinance.

(6) Upon adoption of the ordinance of designation, the owners and occupants of each designated historic property shall be given written notification of such designation by the local board or council insofar as reasonable diligence permits. One copy of the ordinance and each amendment thereto shall be filed by the Commission in the office of the Register of Deeds of the county. Each historic property designated in the ordinance shall be indexed according to the name of the owner of the property in grantee and grantor indexes in the Register of Deeds' office, and the Commission shall pay a reasonable fee for filing and indexing. In case of any property lying within the zoning jurisdiction of Gibsonville, Greensboro, High Point or Jamestown, a second copy of the ordinance and each amendment thereto shall be kept on file in the office of the city, county or town clerk, and be made available for public inspection at any reasonable time. A third copy of the ordinance and each amendment thereto shall be given to the town, city or county building inspector depending upon the zoning jurisdiction in which the property is located. The fact that a building, structure, site area or object has been designated a historic property shall be clearly indicated on all tax maps maintained by the town, city or county for such period as the designation remains in effect.

(7) Upon adoption of an ordinance of designation or any amendment thereto, it shall be the duty of the Commission to give notice thereof to the county's Tax Supervisor. The designation and any recorded restriction upon the property limiting its use for preservation purposes shall be considered by the Tax Supervisor in appraising it for tax purposes.

(E) *Required waiting period.* A property which has been designated as a historic property, as herein provided, may be materially altered, restored, moved or demolished only following the issuance of a certificate of appropriateness by the Historic Properties Commission in accordance with the procedures and standards set forth in G.S. Ch. 160A, Art. 19, Part 3A. Certificates of appropriateness for designated properties located in historic districts shall be issued and processed by the local Historic District Commission. An application for a certificate of appropriateness authorizing the demolition of a designated building or structure or the destruction of an object may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 180 days from the date of approval. The maximum period of delay (180 days) shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be deprived of beneficial use of or return from such property by virtue of the delay. During such period, the Historic Properties Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building, structure or object.

(F) *Certain changes not prohibited.* Nothing in this subchapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on a historic property that does not involve a change in design, material or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when a Building Inspector or similar official certifies to the Commission that such action is required for the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his or her property not prohibited by other statutes, ordinances or regulations.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.12 CRITERIA FOR COMMISSION REVIEW.

To provide guidelines to owners of historic properties; to provide reasonable standards to assist the Historic Properties Commission in its review, during the waiting period required by § 150.11(E) of this chapter, of an owner's proposed demolition, material alteration, remodeling or removal of a historic property; and to provide reasonable standards to assist the Commission in determining whether to recommend the renovation or removal of historic property designation on account of a change in a property which has caused its historical significance to be lost or substantially impaired; the Commission shall adopt criteria for review which shall be submitted to the local board or council for its approval prior to the Commission's review of an owner's application for a certificate of appropriateness and prior to the Commission's recommendation of revocation or removal of designation.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.13 CONDITIONS FOR CERTAIN APPROVALS.

In the event that the Historic Properties Commission, in reviewing an owner's application for a certificate of appropriateness during the waiting period required by § 150.11(E) of this chapter, shall find that a building or structure for which a building permit is required is to be an authentic restoration or reconstruction of a building or structure which existed at the same

location, but does not meet zoning requirements said building or structure may be authorized to be restored or reconstructed at the same location where the original building or structure was located; provided, the Board of Adjustment authorizes such restoration or reconstruction and no use other than that permitted in the district in which it is located is made of said property. Such conditions as may be set by the Historic Properties Commission and the Zoning Board of Adjustment shall be conditions for the issuance of the building permit.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.14 REQUIRED DATA.

(A) *General.* The Historic Properties Commission shall require data as are reasonably necessary to determine the nature of the owner's proposed actions, which are made known to the Historic Properties Commission when the owner submits the application for a certificate of appropriateness and during the waiting period required by § 150.11(E) of this chapter. The owner's application for a certificate of appropriateness shall not be considered complete until such required data has been submitted.

(B) *Files to be kept.* All of the data required shall be filed with the county's Manager or his or her designee, who shall cause said data to be submitted to the Commission.

(C) *Record of action taken by the Commission.* The Commission shall maintain a file containing records of all written notices of proposed actions submitted to the Commission, reasons underlying all actions, drawings submitted for review and subsequent amendments.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.15 AUTHORITY TO ACQUIRE HISTORIC PROPERTIES.

When such action is reasonably necessary or appropriate for the preservation of a designated historic property, the county's Joint Historic Properties Commission may negotiate at any time with the owner for its preservation as allowed by G.S. Ch. 160A, Art. 19.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.16 RECEIPT AND EXPENDITURE OF FUNDS.

The town, city or county governing board is authorized to make appropriations to the Historic Properties Commission established pursuant to this subchapter in any amount that it may determine necessary for the expenses of the operation of the Commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation and management of historic buildings, structures, sites, areas or objects designated as historic properties, or of land on which historic buildings or structures are located, or to which they may be removed.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.17 STAFF AND TECHNICAL SERVICES.

The Commission may recommend to the local governing board suitable arrangements for the procurement or provision of staff or technical services to the Commission.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.18 OWNERSHIP OF PROPERTY.

(A) All lands, buildings, structures, sites, areas or objects acquired by funds appropriated by a governing board or council shall be acquired in the name of the governing board or council. So long as owned by a city, town or the county, historic properties may be maintained by or under the supervision and control of the city, town or the county.

(B) However, all lands, buildings or structures acquired by the county's Joint Historic Properties Commission from funds other than those appropriated by a city, town or the county, may be acquired and held in the name of the county's Joint Historic Properties Commission, the city, town or county, or both.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.19 SUBCHAPTER TO APPLY TO PUBLICLY-OWNED BUILDINGS AND STRUCTURES.

Designated historic buildings, structures, sites, areas or objects owned by the state or any of its political subdivisions, agencies or instrumentalities shall be subject to the regulations imposed by this subchapter, pursuant to the authority of G.S. § 121-12.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.20 CONFLICT WITH OTHER LAWS.

Whenever this subchapter requires a longer waiting period or imposes other higher standards with respect to a designated historic property than are established under any other statutes, charter provision, regulation or ordinance, this subchapter shall govern. Whenever the provisions of any other statute, charter provision, ordinance or regulation require a longer waiting period or impose other higher standards than are established under this subchapter, such other charter provision, ordinance or regulation shall govern.
(Ord. 1980-10-1, passed 10-21-1980)

§ 150.21 REMEDIES.

In case any building, structure, site, area or object designated a historic property is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled or removed, except in compliance with this subchapter, a city, town or the county or the county's Joint Historic Properties Commission, may institute any appropriate action or on proceedings to prevent such unlawful demolition, material alteration, remodeling or removal, to

restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such historic property.
(Ord. 1980-10-1, passed 10-21-1980)

CHAPTER 151: HOUSING

Section

House and Building Numbers

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HOUSE AND BUILDING NUMBERS

§ 151.01 REGULATIONS.

(A) Within 90 days after written notice by the Planning Division on behalf of the town's Planning and Zoning Board, of the assignment of or change of an address to any house, building, apartment or condominium complex the owner or occupant of such property shall be required to post the number (including any letters) so assigned in an approved area on such property in accordance with the requirements of divisions (B)(1), (B)(2) and (B)(3) below.

(B) In addition, any owner or occupant of any house, building or unit which has previously been assigned a number shall comply with divisions (B)(1), (B)(2) and (B)(3) below no later than 90 days after adoption.

(1) The minimum height of the house, building or unit number shall not be less than three inches; however, the building number of an apartment, townhouse or condominium complex shall not be less than six inches high and shall be placed either in the approximate center of the building or on the street end of the building so that it can be visible from either the public or private street or from the parking lot which serves said building.

(2) The house or building numbers shall be maintained within a three-foot perimeter of the front entrance whereby they are visible and readable. However, in the event a house or building is not visible for 100 feet, from the public street or road on which it fronts or the lot on which the house or building is located is landscaped such that said numbers cannot be seen from the public street or road, the assigned number shall also be posted on the property at or near the property line at a driveway or access to said structure.

(3) Said house or building number shall be in a contrasting color to the color scheme of the house or building so that it is clearly visible and shall be maintained in a clearly visible manner. The county's Building Inspector shall not issue a certificate of compliance or a certification of occupancy until the assigned number is posted in accordance with this section.

(4) Following the posting of the assigned number as required, the owner or occupant shall maintain such house or building number at all times in compliance with the above mentioned standards. House and building numbers shall not be obstructed from view by shrubs or vegetation as viewed from the public street or road.

(Ord. 1991-9-1, passed 12-17-1991) Penalty, see § 151.99

MINIMUM HOUSING STANDARDS

§ 151.15 FINDING; PURPOSE.

(A) Pursuant to G.S. § 160A-441, it is hereby found and declared that there exist in the town 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 and otherwise harmful to the welfare of the residents of the town.

(B) The town further finds that there exists within the town non-residential buildings and structures that appear to be dilapidated, vacant or abandoned and to be in such a 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.

(C) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. Ch. 160A, Art. 19, part 6, it is the purpose of this subchapter 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.

(D) The provisions of this subchapter shall apply to all residential and non-residential buildings and structures within the town as now or hereinafter affixed.

(E) The provisions of this subchapter shall not apply to any structure exempt from regulations under the county's Development Ordinance and as otherwise exempt by statute or other applicable laws.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.16 DEFINITIONS.

(A) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTER, ***REPAIR***, ***BRING INTO COMPLIANCE*** or similar words. The work is workmanlike and performed in a workmanlike manner.

BUILDING. That which is built or constructed, a structure or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term ***BUILDING***" shall be construed as if followed by the words "or part thereof".

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

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

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

DETERIORATED. A dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this subchapter, at a cost not in excess of 50% of its value, as determined by finding of the public officer or Inspector.

DILAPIDATED. A building or dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this subchapter at a cost not in excess of 50% of its value, as determined by finding of the public officer or Inspector.

DWELLING. Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as hereinafter defined shall not be regarded as a ***DWELLING***.

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

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

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

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

INFESTATION. The presence, within or around a building or 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. The Building Inspector of the town or any agent of the Inspector who is authorized by the Inspector.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

OCCUPANT. Any person living, sleeping, cooking or eating in, or having actual possession of, a building or dwelling unit or rooming unit.

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

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

(a) Shall have fee simple title to any building, dwelling or dwelling unit, and every mortgagee, and owner and holder of a deed of trust and the trustee therein, of record; with or without accompanying actual possession of said building, dwelling or dwelling unit; or

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

PARTIES IN INTEREST. All individuals, associations and corporations who have interests of record in a building or dwelling and any who are in possession thereof.

PLUMBING. All of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. The town's Housing Authority or any officer who is in charge of any department or branch of the government of the town or the state relating to health, fire, building regulations or other activities concerning dwellings in the town.

PUBLIC OFFICER. The officer employed by the town and designated by the Town Manager as the officer authorized to exercise the powers prescribed by this subchapter. Any such ***PUBLIC OFFICER*** shall be a qualified code enforcement official, as defined and provided in G.S. §§ 143-151.8 et seq.

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

ROOMING HOUSE. Any dwelling, or that part of any 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 husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

RUBBISH. Combustible and non- combustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

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

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

UNFIT FOR HUMAN HABITATION. Conditions exist in a dwelling 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 subchapter.

(B) Whenever words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, “premises” are used in this subchapter, they shall be construed as though they were followed by the words “or any part thereof”.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.17 MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS.

(A) Every building, dwelling and dwelling unit used as a human habitation, or held out for use as human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 151.18 through 151.24 of this chapter. No person shall occupy as owner, occupant or let to another for occupancy or use as a human habitation, any building, dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 151.18 through 151.24 of this chapter.

(B) An Inspector or public officer may declare a non-residential building or structure to be unsafe if it appears to the Inspector or public officer to be dilapidated, vacant or abandoned, and it appears to be in such a condition 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.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.18 MINIMUM STANDARDS FOR STRUCTURAL CONDITION.

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

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

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged so as to dangerously reduce their intended load-bearing characteristics.

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

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

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

(G) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather- and water-tight.

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

(I) There shall be no use of the ground for floors or wood floors on the ground. (Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.19 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.

(A) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to the 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 water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shal1 meet the standards of the town's 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 located in a room or rooms affording privacy to the user.

(B) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either divisions (B)(1) or (B)(2) below.

(1) *Central and electric heating system.* Every central or electric heating system shall be of sufficient capacity so as to heat at least one habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 68°F measured at a point three feet above the floor and two feet from exterior walls during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat at least one habitable room with a minimum temperature of 68°F measured three feet above the floor and two feet from exterior walls during ordinary winter conditions.

(3) *Alternate heat source.* Portable kerosene heaters are not acceptable as a permanent source of heat as provided in divisions (B)(1) and (B)(2) above, but are allowable as a supplementary heating source. Any owner(s) who have complied with divisions (B)(1) and (B)(2) above shall not be held in violation where an occupant uses a kerosene heater as a primary source of heat.

(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 receptables, connected in such manner as determined by the National Electric 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 adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a slate of good repair, safe, capable of being used, without hazard to property or person.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.20 MINIMUM STANDARDS FOR VENTILATION.

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors for adequate ventilation. At least one window in every habitable room shall be of such size and location to allow egress by an average adult in the event of fire or other emergency.

(B) *Habitable rooms.*

(1) Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room.

(2) The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight- type window size as required, or shall have other approved, equivalent ventilation.

(C) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms; except that, no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.21 MINIMUM STANDARDS FOR SPACE, USE AND LOCATION.

(A) *Room sizes.*

(1) Every dwelling unit shall contain at least the minimum room size in each habitable room or usable commercial space as required by the current version of the North Carolina State Building Code or the building code in effect at the time of the construction, whichever is least restrictive.

(2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.

(3) 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.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area or useable commercial space. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

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

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

(1) The floor and walls are substantially water-tight;

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

(3) The required minimum window standards 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 accessway.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.22 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; shall be safe to use and capable of supporting the load which normal use may 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 floor, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially 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 may cause to be placed thereon.

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

(D) *Stairs, porches and appurtenances.* Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(E) *Bathroom floors, toilet, bath and shower spaces.* Bathtub and shower floors and walls above bathtubs with installed shower heads and in shower compartments shall be finished with a non-absorbent surface. Such non-absorbent surfaces must extend at least six feet above the floor. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to 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 subchapter 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 so as to obtain thorough drainage and so as 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 and shall be maintained in compliance with the town's ordinance with respect to public nuisances (Ord. 2000-7-1, passed 7-18-2000).

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the current version of the North Carolina State Residential Building Code or the building code in effect at the time of construction, which ever is the least restrictive. All interior egress doors and a minimum of one exterior egress door shall be readily openable from the side from which egress is to be made without the use of a key or special knowledge or effort.

(J) *Smoke alarms.* Every dwelling and dwelling unit shall have smoke alarms installed and maintained according to the North Carolina State Residential Building Code.

(K) *Carbon monoxide alarms.* Where interior alterations, repairs, fuel-fired appliance replacements, or additions requiring a permit occurs, or where one or more sleeping rooms are added or created, carbon monoxide alarms shall be provided in accordance with the North Carolina State Residential Building Code.

(L) *Lead-based paint hazard remediation.* The investigation of lead poisoning shall be conducted in accordance with the county's Department of Public Health Childhood Lead Poisoning Prevention Regulations for remediation of lead-based paint hazards in homes with a confirmed elevated blood level child.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.23 MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

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

(B) *Infestation.*

(1) 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 building, dwelling or dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the only one infested.

(2) Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably inspect proof condition, extermination shall be the responsibility of the owner.

(3) 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 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 incinerator unit, to be approved by the Inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by town ordinances.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.24 MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES; EXCEPTIONS.

All of the provisions of this subchapter, and all of the minimum standards and requirements of this subchapter, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in divisions (A) through (D) below.

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

(B) *Minimum floor area for sleeping purposes.* 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.

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

(D) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin, and bathtub or shower required by division (A) above shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are

accessible from a common hall and without going outside the rooming house or through any other room therein.
(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.25 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

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

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he or she 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 building, dwelling or 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 dwel1ing unit.
(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014) Penalty, see § 151.99

§ 151.26 DUTIES OF BUILDING INSPECTOR.

(A) The Building Inspector is hereby designated as the officer to enforce the provisions of this subchapter and to exercise the duties and powers herein prescribed.

(B) It shall be the duty of the Building Inspector:

(1) To investigate the dwelling conditions, and to inspect buildings, dwellings and dwelling units, located in the town, in order to determine which buildings, dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this subchapter with respect to such buildings, dwellings and dwelling units;

(2) To take such action together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing and which is deteriorated;

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

(4) To perform such other duties as may be herein prescribed.

(C) The town contracts with Guilford County (contract 5-28-1976, amended 4-1-1998, 7-1-2000 and 12-1-2005) to perform all inspections required pursuant § 105.6 of the North Carolina State Building Code, including, but not limited to, building, mechanical, plumbing, electrical, fuel gas and erosion control services. Guilford County further agreed to

provide the town indirect services such as construction plan review, permit issuance, computer forms and files keeping, enforcement, administration and disaster response.
(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.27 POWERS OF BUILDING INSPECTOR.

The Building Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this subchapter, including the following powers in addition to others herein granted:

(A) To investigate the building and dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

(B) To administer oaths and affirmations, examine witnesses and receive evidence;

(C) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with law and the least possible inconvenience to the persons in possession;

(D) To appoint and fix the duties of such officers, agents and employees as deemed necessary to carry out the purposes of this subchapter; and

(E) To delegate any of his or her functions and powers under this subchapter to other officers and other agents.
(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.28 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.

For the purpose of making inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all buildings, dwellings, dwelling units, rooming units and premises. The owner or occupant of every building, dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the Inspector free access to such building, dwelling, dwelling unit or rooming unit, and its premises at all reasonable times for the purposes of such inspection; examination, and survey. Every occupant of a building, dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of such building, dwelling or dwelling units, 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 subchapter or with any lawful order issued pursuant to the provisions of this subchapter.
(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.29 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 or she shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and 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 said 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 relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) *Procedure after hearing.*

(1) After such notice and hearing, the Inspector shall state, in writing, his or her determination whether such non-residential building or structure, dwelling or dwelling unit is unsafe for human habitation and, if so, whether it is deteriorated or dilapidated.

(2) If the Inspector determines that the non- residential structure, dwelling or dwelling unit is deteriorated, he or she shall state, in writing, his or her 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 and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this subchapter within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations and improvements have been made.

(3) If the Inspector determines that the dwelling is dilapidated, he or she shall state in writing his or her 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 to either repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this subchapter, or else vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(C) *Failure to comply with order.*

(1) *In personam 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 the same within the time specified therein, of if the owner of a dilapidated dwelling shall fail to comply with an order of the Inspector to vacate and close, and remove or demolish the same within the time specified therein, the Inspector shall submit to the Town Council 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 dwelling or dwelling unit, or of a dilapidated dwelling, 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 division (C)(1) above, the Inspector shall submit to the Town Council an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved or vacated and closed and removed or demolished, as provided in the original order of the Inspector, and pending such removal or demolition, to placard such dwelling as provided by G.S. § 160A-443 and § 151.31 of this chapter.

(D) *Appeals from orders of Inspector.*

(1) An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. 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 or her decision shall remain in force until modified or reversed. When any 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 bearing by the Board, unless the Inspector certified to the Board, after the notice of appeal is filed with him or her, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her requirement shall not be suspended, except by a restraining order, which may be granted 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 division (E) below.

(2) 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.

(3) Every decision of the Board shall be subject to review by proceedings in the nature of 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).

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.30 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail, but 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 once each week for two successive weeks in a newspaper, circulating in the town. There 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.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.31 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) 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 subchapter, and upon adoption by the Town Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. § 160A-443(5) and § 151.29(C) of this chapter, 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 subchapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful". Occupation of a building so posted shall constitute a misdemeanor.

(B) Each such 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).

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.32 COSTS, A LIEN ON PREMISES.

As provided by G.S. § 160A-443(6), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to § 151.31 of this chapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Ch. 160A, Art. 10.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.33 ALTERNATIVE REMEDIES.

Neither this subchapter or any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this subchapter by criminal process as authorized by G.S. § 14-4 and § 151.36 of this chapter, 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.

(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.34 HOUSING BOARD OF APPEALS.

There is hereby created a Housing Appeals Board to which appeals may be taken from decisions or orders of the Inspector, as provided by § 151.29(D) of this chapter. The Board shall consist of five members to serve for three-year staggered terms. The Board shall have the power to elect its own officers, to fix the times and places of its meetings, to adopt necessary rules of

procedure and to adopt other rules and regulations for the proper discharge of its duties. The Board shall perform the duties prescribed by § 151.29(D) of this chapter and shall keep an accurate record of all its proceedings.
(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.35 ZONING BOARD OF ADJUSTMENT.

All appeals which may be taken from decisions or orders of the Inspector pursuant to § 151.29(D) of this chapter shall be heard and determined by the Zoning Board of Adjustment. As the appeals body, the Board shall have 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 § 151.29(D) of this chapter and shall keep an accurate journal of all its proceedings.
(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.36 CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard or requirement of this subchapter is found to be in conflict with any provision of any other ordinance or code of the town, 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.
(Ord. 1972-9-1, passed 9-20-1972; Ord. passed 6-19-2014)

§ 151.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Violation of § 151.01 of this chapter is misdemeanor as provided by G.S. § 14-4 and may be punished as provided therein. Each day the violation continue after the offending owner or occupant has been notified of the violation shall constitute a separate violation of § 151.01 of this chapter.

(2) Notice of violation of § 151.01 of this chapter sufficient to allow the daily criminal penalties of division (B)(1) above to be invoked may be given by the county's Building Inspections Division, the county's Fire Marshal's Office, the county's Emergency Medical Services Division, the county's Sheriff's Department, the county's Attorney's Office, the town's Attorney's Office or the town's Fire Chief must be in writing directed by name to the owner or occupant of the house or building set forth what action is necessary in order for the offender to be in compliance.

(C) (1) It shall be unlawful for the owner of any building, dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It

shall be unlawful for the owner of any building, dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 151.29 of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(2) The violation of any provision of §§ 151.15 through 151.35 of this chapter shall constitute a misdemeanor, as provided by G.S. § 14-4.

(3) It shall be unlawful to prevent the Inspector or Inspectors authorization to enter, examine and survey at all reasonable times all buildings, dwellings, dwelling units, rooming units and premises under § 151.28 of this chapter. Each incident shall constitute a separate and distinct violation.

(4) In addition to the remedy specified in this division (C) and in other sections of §§ 151.15 through 151.36 of this chapter, the provisions of §§ 151.15 through 151.36 of this chapter may also be enforced by the two by injunction and order or abatement or by any other equitable remedy issuing from a court of competent jurisdiction, as specified in G.S. § 153A-123(d) and (e).

(5) All violations under §§ 151.15 through 151.36 of this chapter are subject to the town, in its sole discretion seeking as an alternative and/or additional relief the recovery of its actual investigative and administrative costs.

(Ord. 1972-9-1, passed 9-20-1972; Ord. 1991-9-1, passed 12-17-1991; Ord. passed 6-19-2014)

CHAPTER 152: PLUMBING

Section

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§ 152.01 PLUMBING TO CONFORM TO THIS CHAPTER.

All plumbing hereafter installed in the town shall conform to the requirements of this chapter. Every architect, contractor and builder in making the plans and specifications for any building wherein plumbing shall be necessary shall make such plans in conformity with the provisions of this chapter.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.02 PLUMBING DONE IN POLICE JURISDICTION TO CONFORM.

Any person having premises or buildings not within the corporate limits and desiring to use or connect with any sanitary sewer or waste main which connects with or discharges into any sanitary sewer, sewerage system or water main of the town at any point, shall conform to the ordinances of the town regulating the installation of sanitary plumbing, the securing of permits for and the inspection of same and shall abide by the regulations of the town and the North Carolina State Building Code.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.03 POWER TO CONDEMN INSANITARY PLUMBING; CORRECTION OF CONDITION.

The Plumbing Inspector shall have power to condemn any plumbing fixtures, drains, catch basins, sinks or other parts of the plumbing system which, in his or her judgment, is not sanitary or which is not maintained in a sanitary condition. It shall be the duty of any owner or agent or person having control of any property immediately to repair or replace any plumbing which has been condemned by the Plumbing Inspector.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.04 PLUMBING INSPECTOR TO ENFORCE PROVISIONS OF THIS CHAPTER.

(A) The town contracts with Guilford County (contract 5-28-1976, amended 4-1-1998, 7-1-2000 and 12-1-2005) to perform all inspections required pursuant § 105.6 of the North Carolina State Building Code, including, but not limited to, building, mechanical, plumbing, electrical, fuel gas and erosion control services. Guilford County further agreed to provide the town indirect services such as construction plan review, permit issuance, computer forms and files keeping, enforcement, administration and disaster response.

(B) The Plumbing Inspector shall have the power, and it shall be his or her duty:

(1) To enforce the provisions of this chapter;

(2) To approve or disapprove within a reasonable time after receipt of application, plans and specifications for plumbing;

(3) To issue licenses, permits, notices and certificates; and

(4) To witness tests and to make rules to assist in the proper administration of his or her office.

(Ord. 1963-5-1, passed 5-15-1963)

§ 152.05 APPEAL FROM PLUMBING INSPECTOR.

The Plumbing Inspector shall be the judge of the quality of material and workmanship as to their meeting sanitary requirements and other requirements of this chapter, and he or she shall have first authority to construe this chapter.

(Ord. 1963-5-1, passed 5-15-1963)

§ 152.06 RIGHT OF ACCESS FOR THE PURPOSE OF INSPECTION.

(A) (1) The Plumbing Inspector shall have, as far as may be necessary for the performance of his or her duties and for the maintenance of health of the citizens of the town, the right at any reasonable time to enter any building or premises within the town limits or which may be connected to the town water or sewer system.

(2) He or she shall have the right to order the removal of any plumbing fixtures, soil, drain, waste or other pipes which are in an unsanitary condition.

(B) No person shall interfere with him or her in the performance of such duties.

(Ord. 1963-5-1, passed 5-15-1963) Penalty, see § 10.99

§ 152.07 PERMITS REQUIRED FOR ALL PLUMBING.

Applications shall be made and permits shall be obtained for all extensions, alterations, general repairs or other work to be done in connection with the drainage of plumbing work in buildings now or hereafter erected, except minor repairs which must be done by licensed plumbing or heating contractors unless otherwise provided for in this chapter.

(Ord. 1963-5-1, passed 5-15-1963)

§ 152.08 APPLICATION FOR PERMIT.

No actual connections shall be made with the water or sewerage system of the town until the owner of the premises through his or her licensed plumbing contractor of master plumber shall have made written application to the Plumbing Inspector for permission so to connect and such application shall be made, and a permit in writing shall be secured, before any portion of the drainage system of the house or other connection shall be laid or constructed.

(Ord. 1963-5-1, passed 5-15-1963) Penalty, see § 10.99

§ 152.09 ACTION ON APPLICATIONS.

Applications for sewer and plumbing work shall be filed at the office of the Plumbing Inspector, who shall endorse for approval or disapproval and, if disapproved, the reason for such disapproval. Upon said application, within 24 hours after filing and if the application is approved, he or she shall issue the permit, which shall be delivered to the plumber.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.10 WHEN PERMITS SHALL NOT BE ISSUED.

No permit shall be issued to any master plumber while the applicant refuses to make good or to change any work or to meet any other lawful requirements of the Plumbing Inspector. If the state license has expired, no permits shall be issued until such time that such plumbing or heating contractor has complied with all requirements of state laws.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.11 PERMITS ISSUED ON CONDITION.

All permits to connect with the public sewer shall be given upon the condition that the Inspector may, at any time before the completion of the connection, revoke and annul the permit when the work is not being properly executed and upon further condition that the parties interested shall have no claim for damages in consequence of such permit being revoked or annulled.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.12 INSPECTION OF ALL PLUMBING WORK REQUIRED.

All piping, traps and fixtures of a plumbing system shall be inspected by the Plumbing Inspector to ensure compliance with all the requirements of this chapter and the installation and construction of the system in accordance with the approved plans, permits and the North Carolina State Building Code.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.13 PLUMBING NOT TO BE COVERED UNTIL INSPECTED.

No drainage or plumbing system or any part thereof shall be covered until it has been inspected, tested and approved as herein prescribed.
(Ord. 1963-5-1, passed 5-15-1963) Penalty, see § 10.99

§ 152.14 APPLICATION FOR FINAL INSPECTION.

Application for final inspection shall be made promptly when the work is finished and shall show the number of fixtures installed.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.15 MATERIAL AND LABOR FOR TESTS.

The equipment, material, power and labor necessary for the inspection and tests shall be furnished by the plumber.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.16 UNCOVERING OF WORK FOR INSPECTION.

If any house drainage or plumbing system or part thereof is covered before being properly inspected, tested and approved, as herein prescribed, it shall be uncovered upon the direction of the Plumbing Inspector.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.17 REMOVAL OF CLEAN-OUTS FOR SYSTEM TESTS.

The Plumbing Inspector may if necessary require the removal of any clean-out to ascertain if the pressure has reached all parts of the system.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.18 CERTIFICATE MAY INDICATE EXTRA WORK TO BE DONE.

The Plumbing Inspector shall, upon application, issue to the plumber a certificate stating that the work or such portion thereof as has been inspected, has either been approved or disapproved and, if disapproved, such certificate shall state why and what will be necessary to make the work meet the approval of the Plumbing Inspector.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.19 REPLACING DEFECTIVE WORK.

(A) If inspection or test shows defects, such defective work or material shall be repaired or replaced within three days and inspection and test shall be repeated.

(B) Poor workmanship, design or methods of installation likewise shall be sufficient cause for the condemnation of the whole or any part of any part of the system.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.20 FINAL CERTIFICATION ISSUED WHEN WORK PROPERLY DONE.

(A) When fixtures are set and connected with soil, drain, waste or vent pipes, the Plumbing Inspector shall examine same and, if fixtures conform to the requirements of this chapter and are properly installed, he or she shall issue to the master plumber, or owner, a certificate stating that this work has been done in accordance with the town's requirements.

(B) All such sewer connections shall be made in accordance with the ordinances of the town and the North Carolina State Building Code.

(Ord. 1963-5-1, passed 5-15-1963)

§ 152.21 SCHEDULE OF FEES.

Fees will be established by Town Council from time to time.

(Ord. 1963-5-1, passed 5-15-1963)

§ 152.22 APPLICATION OF SCHEDULE.

The fees prescribed by § 152.21 of this chapter shall apply to all old work as well as new, and to inspection made necessary by moving any house from one location to another or by raising such house, and shall apply when it is necessary for any reason to reset or replace any fixture or water storage tank.

(Ord. 1963-5-1, passed 5-15-1963)

§ 152.23 PERMITS AND REQUIREMENTS TO DO CERTAIN WORK.

(A) (1) No person, firm or corporation, other than a master plumber, duly licensed, or journeyman plumber, duly employed by such master plumber, shall make or cause to be made any connection to any plumbing fixtures, drain, waste, soil or vent pipe or water supply system or sewer system in connection therewith, within the town limits, or where connections are made to the water supply or sewer system of the town.

(2) A permit must be secured from the town to do so, and it shall be the duty of the Plumbing Inspector to keep a suitable record of all permits issued.

(B) No person, firm or corporation shall conduct a business or engage in the occupation of a master plumber or plumbing contractor or heating contractor or conduct a business of employing plumbers without submitting evidence of his or her compliance with applicable state law.

(C) No connection shall be made to the water system, sewer system, or to any plumbing system of any kind of the town unless such plumbing connection and system meet town requirements and a permit is secured to make said connections.

(Ord. 1963-5-1, passed 5-15-1963) Penalty, see § 10.99

§ 152.24 PAYMENT OF FEES.

All fees to be paid under the provisions of this chapter shall be paid to the town on application furnished and approved by the Plumbing Inspector.
(Ord. 1963-5-1, passed 5-15-1963)

§ 152.25 INDEPENDENT SYSTEM.

The drainage and plumbing system of each new building and of new work installed in any existing building shall be separate from and independent of that of any other building and every building shall have an independent connection with a public or private sewer when available; provided that, where there is an existing building on a lot that has a sewer line connected with the sewer system of the town and the owner of such lot is erecting a new building over such existing sewer line on such lot, the sewer system in such new building may be connected to the existing sewer line across such lot over which such new building is being built; provided further that, prior to the sale of any one or both of such buildings on the lot the owner shall provide separate sewer lines for each one of such building.
(Ord. 1963-5-1, passed 5-15-1963)

CHAPTER 153: LAND DEVELOPMENT ORDINANCE

Section

153.01 Adopted by reference

§ 153.01 ADOPTED BY REFERENCE.

The town's Land Development Ordinance, and any and all amendments, is hereby adopted by reference and incorporated herein as if set out in full.
(Ord. 1980-2-1, passed 2-19-1980; Ord. 1983-5-1, passed 5-17-1983; Ord. 1986-10-1, passed 10-20-1986; Ord. 1997-8-1, passed 8-19-1997; Ord. passed 1-1-2001; Ord. passed 6-21-2005; Ord. passed 3-21-2006; Ord. passed 12-19-2006; Ord. passed 12-28-2006; Ord. passed 5-15-2007; Ord. passed 7-21-2009; Ord. passed 5-19-2015)

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II. CONDEMNATIONS
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IV. HISTORIC PROPERTY DESIGNATIONS

TABLE I: ANNEXATIONS AND EXTRA-TERRITORIAL JURISDICTIONS

Ord. No.	*Date Passed*	*Description*
-	1-19-1982	Annexing 4.125 acres of land, Baker property, E. Fork Road
-	1-17-1984	Annexing 17.43 acres of land, Baker property, E. Fork Road
-	3-19-1985	Annexing 3.30 acres, Charles Dowdy, Exum Bailey Haden Hagie
-	6-18-1985	Annexing Ragstaff Association, Woodbine property
-	11-19-1985	Annexing the Thomas C. Ragsdale and Margaret Ragsdale property, Southside Highway 29/70
-	11-19-1985	Annexing 44.9 acres behind GTCC, Billy Edwards property, Oakbrook properties
-	3-18-1986	Annexing 13.020 acres, Burrows property on Guilford Road
1986-6-1	6-3-1986	Annexing certain land into the extraterritorial jurisdiction of the town; changing boundary descriptions
-	12-2-1986	Annexing Brewer property at 2222 Guilford Road and Dr. and Mrs. Fortney and Peggy Powell at East Fork Road
-	8-18-1987	Annexing 62.443 acres, Oakdale Mill Road
-	1-19-1988	Annexing seven residences on Guilford Road

Ord. No.	*Date Passed*	*Description*
-	9-21-1993	Amendment; Greensboro-Jamestown joint annexation
-	4-19-1994	Annexing the Cecil Little property behind the ABC Store
-	8-15-1995	Annexing 103.056 acres, the Ted Johnson property at Guilford Road
1996-12-1	12-17-1996	Annexing 32.88 acres of land, a parcel east of Dillon Road
-	9-15-1998	Annexing 2.9 acres, Rick Larrick property at 2265 Guilford College Road
-	1-21-2003	Annexing 12.97 acres, Washington property at 111 E. Fork Road
-	9-16-2003	Annexing the Fairground, Jamestown Park and Golf Course property
2006-5-1	5-16-2006	Annexing 3.148 acres of land, the Arthur B. Lea Family Trust properties
2008-9-1	9-16-2008	Annexing certain land and extending the extraterritorial jurisdiction of the town
2009-10-1	10-20-2009	Annexing property formerly known as 6020 High Point Road, now known as Gardner Hill Station
2011-12-1	12-1-2011	Annexing certain land; the Greensboro-Jamestown joint annexation agreement
2013-2-1	2-19-2013	Voiding and nullifying the Greensboro-Jamestown joint annexation agreement; adopting a new Greensboro-Jamestown joint annexation agreement

TABLE II: CONDEMNATIONS

Ord. No.	*Date Passed*	*Description*
1973-2-1	2-21-1973	Declaring 108 Robbins Avenue as unfit for human habitation
1973-2-2	2-21-1973	Declaring 202 Robbins Avenue as unfit for human habitation

Ord. No.	*Date Passed*	*Description*
1980-10-02	10-21-1980	Declaring 201 Lee Street as unfit for human habitation

TABLE III: FRANCHISES

Ord. No.	*Date Passed*	*Description*
1949-6-1	- -1949	Granting permission and privileges to North State Telephone Company
1949-6-2	- -1949	Granting permission and privileges to Southern Bell Telephone and Telegraph Company
1950-11-1	- -1950	Granting permission and privileges to Duke Power Company
1966-11-1	- -1966	Granting a franchise to Piedmont Natural Gas Company, Inc.
1980-8-1	8-19-1980	Granting a non-exclusive franchise to Carolina's Cable, Inc.
1988-11-1	11-15-1988	Granting a franchise, permission and privileges to North State Telephone Company

TABLE IV: HISTORIC PROPERTY DESIGNATIONS

Ord. No.	*Date Passed*	*Description*
1982-1-02	1-19-1982	Designating the Jamestown Elementary School (1915 original structure) as historic property
1982-12-1	12-21-1982	Designating the Richard Mendenhall Plantation, located at 601 W. Main Street, as historic property
1984-5-1	5-15-1984	Designating the original structure and grounds of the Coffin- Robbins-Tilden House (the Shubal Coffin House I), located at 607 W. Main Street, as historic property

Ord. No.	***Date Passed***	***Description***
2004-10-2	10-19-2004	Designating the Ragsdale Farm (Magnolia Farm) as a county historic landmark

PARALLEL REFERENCES

References to North Carolina General Statutes

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1-593	10.05
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14-399 et seq.	51.05
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14-415.21	131.99
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14-409.39(2)	31.06
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18B-700 through 18B-706	Charter Sec. 1, § 6.1
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20-37.6	72.08
20-97(a)	Charter Sec. 10
20-141	71.15
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67-4.1 et seq.	90.12
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136-143	93.14
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Ch. 143, Art. 21A	51.01
Ch. 143, Art. 33C	150.06
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160A-446(g)	151.29
163-294	Charter Sec. 1, § 3.1
164-7	10.14
166A-19.22	31.01

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