

CODE OF ORDINANCES
TOWN OF
WAXHAW, NORTH CAROLINA

Published in 2018 by Order of the Board of Commissioners

municode

Municipal Code Corporation | P.O. Box 2235 Tallahassee, FL 32316
info@municode.com | 800.262.2633
www.municode.com

OFFICIALS
of the
TOWN OF
WAXHAW, NORTH CAROLINA
AT THE TIME OF THIS RECODIFICATION

Stephen E. Maher
Mayor

Brenda McMillon, Mayor Pro Tem
Brenda Burns
Fred Burrell
Kat Lee
Tracy Wesolek
Board of Commissioners

Greg Ferguson
Town Manager

Charles Buckley
Interim Town Attorney

Melody Shuler
Town Clerk

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Town of Waxhaw, North Carolina.

Source materials used in the preparation of the Code were the 2015 Code, as supplemented through May 15, 2017, and ordinances subsequently adopted by the Board of Commissioners. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2015 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the

page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
RELATED LAWS	RL:1
SPECIAL ACTS	SA:1
CHARTER COMPARATIVE TABLE	CHTCT:1
RELATED LAWS COMPARATIVE TABLE	RLCT:1
SPECIAL ACTS COMPARATIVE TABLE	SACT:1
CODE	CD:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the

responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Julie E. Lovelace, Vice President, and Erin McDaniel, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Greg Ferguson, Town Manager; Charles Buckley, Interim Town Attorney; and Melody Shuler, Town Clerk, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

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PART I
CHARTER*

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- Sec. 2. Corporate limits.
- Sec. 3. Power of Board of Commissioners; municipal elections; terms.
- Sec. 4. Power of town manager.
- Sec. 5. Election of mayor and commissioners.
- Sec. 6. Elected/appointed officers to take oath.
- Sec. 7. Compensation of mayor and commissioners.
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- Sec. 9. Meetings of commissioners.
- Sec. 10. Taxes levied.
- Sec. 10A. Poll tax.
- Sec. 11. Commissioners may condemn, appropriate or use any land; compensation; right to appeal.
- Sec. 12. Severability; exception of section 2.
- Sec. 13. Repeal of other acts.
- Sec. 14. Effective date.

***Editor's note**—Printed in this part is the Charter of the Town of Waxhaw, as amended and consolidated (from the original 1889 Charter) in the Private Laws of 1919, Chapter 57, ratified on March 3, 1919. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State law reference—No poll tax to be levied, Constitution of N.C. art. V, § 1.

Sec. 1. Body politic; corporate rights and powers.

That the inhabitants of the Town of Waxhaw, Union County, North Carolina, living within the limits hereinafter described shall be and continue as they have heretofore been, a body politic and corporate, and here-after the corporation shall bear the name of the Town of Waxhaw, and under such name and style is hereby invested with title to all property, real and personal, which now belongs to the Town of Waxhaw under any other name or names heretofore used, and by this name may acquire and hold for the purposes of its government, welfare and improvement, all such estates as may be devised, bequeathed or conveyed to it; and it may sell, dispose of and invest the same as shall be deemed advisable by the proper authorities of the corporation when said sale or investment is made in accordance with the laws of the State of North Carolina. It may also adopt a common seal, sue and be sued, contract and be contracted with and generally to do any and all acts necessary for the welfare of its inhabitants and the preservation of the property of the citizens residing within its limits.

Sec. 2. Corporate limits.

That the corporate limits of the said Town of Waxhaw, North Carolina, shall embrace the following territory, to wit:

Beginning at Ben Price's northwestern chimney and running thence S. $33\frac{3}{4}$ W. 49 chains to a pile of stones; thence S. $2\frac{1}{2}$ E. 21.50 chains to an iron pen by a white oak, 20 links distant from said white oak and 32 links from a chimney; thence N. $84\frac{1}{2}$ E. 72 chains to an iron stake; thence N. $27\frac{1}{2}$ E. 25 chains crossing the Seaboard Air Line Railway to a pile of stones; thence N. 21 E. 15.63 chains to a large stone and iron stake; thence N. 47 W. 26.58 chains to a stone on Sandy Ridge township line; thence N. $88\frac{1}{2}$ W. 30.50 chains to the beginning point.

Beginning on an iron pipe on the existing southern boundary line of the corporation limits of the Town of Waxhaw, North Carolina, said point being located North 84 degrees 30 minutes East 654.4 feet from the southwest corner of the present corporation limits of the Town of Waxhaw, North Carolina, and running thence with the West line of the Hillcrest Subdivision South 21 degrees 47 minutes 15 seconds East 1355 feet to an iron pipe on the southwest corner of said Hillcrest Subdivision; thence with the southern boundary line of said Hillcrest Subdivision: 1st, North 67 degrees 47 minutes 10 seconds East 1148.75 feet to an iron pipe; 2nd, thence North 69 degrees 27 minutes 33 seconds East 227.8 feet to an iron pipe; 3rd, North 80 degrees 29 minutes 23 seconds East 342.20 feet to an iron pipe on the southeast corner of the Hillcrest Subdivision boundary lines; thence, again, with said boundary as follows: 1st, North 25 degrees 46 minutes 05 seconds West 442.69 feet to an iron pipe; 2nd, North 22 degrees 17 minutes 55 seconds West 324.43 feet to an iron pipe; 3rd, thence North 24 degrees 40 minutes 13 seconds West 176.82 feet to an iron pipe; and 4th, thence North 23 degrees 38 minutes 23 seconds West 43 feet to an iron pipe on the Hillcrest boundary line and also being in the South corporation limits line of the Town of Waxhaw, North Carolina, as presently defined; thence along and with the southern boundary corporation limits line of the Town of Waxhaw, North Carolina, as presently defined, South 84 degrees 30 minutes West 1725 feet to the point of beginning.

(Ord. No. 1963001, 5-7-1963)

Sec. 3. Power of Board of Commissioners; municipal elections; terms.

That all of the powers and privileges conferred by the general law of the State of North Carolina on municipalities shall be and is hereby conferred upon the Town of Waxhaw and, except as other-

wise provided by law, the government and general management of the town shall be vested in the Board of Commissioners comprised of a mayor and five commissioners. The town shall operate under the council-manager form of government in accordance with G.S. ch. 160A art. 7 part 2, as amended. The town manager shall be the chief administrator of the town. He shall be responsible to the Board of Commissioners for administering all municipal affairs placed in his charge by them and have the powers and duties in accordance with G.S. 160A-148. Said mayor and commissioners to be elected biennially, and at the times provided for and in the same manner as is prescribed by the general laws of the state for electing officers for municipalities.

- A. Beginning with the regular municipal election to be held in November 1979, the mayor and five commissioners shall be elected. The mayor and the two commissioner candidates receiving the highest number of votes shall be elected for a term of four years. The three commissioner candidates receiving the next highest number of votes shall be elected for a term of two years. Thereafter, as their terms expire, all successors shall be elected for terms of four years.
- B. The method for determining the results of such elections shall be the non-partisan plurality method set out in G.S. 163-292, and as the same may be amended from time to time.

(Ord. No. 1941001, 3-12-1941; Ord. No. 1979001, 2-27-1979; Ord. No. 1979002, 5-21-1979; Ord. No. 2005001, 8-9-2005)

Sec. 4. Power of town manager.

The town manger shall have the power and authority set forth in G.S. 160A-148(1) regarding employees as shall be deemed necessary for the

proper protection of the citizens and the property of the town or carrying on and looking after the interest and welfare of the town.

(Ord. No. 2005001, 8-9-2005; Ord. No. 2007001, 4-10-2007)

Sec. 5. Election of mayor and commissioners.

That the Board of Commissioners and mayor shall be elected from the citizens of the Town of Waxhaw irrespective of what portion of the town they may reside in.

Sec. 6. Elected/appointed officers to take oath.

That all the officers elected or appointed shall, before entering upon the discharge of his duties, take the oath prescribed by the general law and execute such bond as is prescribed by the Board of Commissioners .

Sec. 7. Compensation of mayor and commissioners.

That the Board of Commissioners shall fix the salary of the mayor per year to be paid out of the town treasury and shall also fix their own salaries per year, and in case a vacancy shall occur in the office of mayor or the Board of Commissioners, the Board of Commissioners shall fill said vacancy until the next general election of officers for said town.

Editor's note—The provision fixing the compensation was repealed by G.S. 160A-64.

Sec. 8. Presiding officer at meetings of commissioners.

The mayor shall preside at all meetings of the Board of Commissioners, and in case an equal division of the votes of the commissioners on any subject to be decided by them shall cast the deciding vote, but otherwise shall have no vote in passing on any matter before them. In the absence of the mayor it shall be the duty of the Board of

Commissioners to select one of their number to preside over their meetings, who shall be designated mayor pro tem.

Sec. 9. Meetings of commissioners.

The board shall meet at such time and place as they may see fit, and shall have power to make and provide for the execution thereof, such ordinances, bylaws, rules and regulations for the good government of the town, the health and security of its citizens, the protection of their property and rights as they may deem proper and necessary for such purposes, not inconsistent with the laws of the state.

Sec. 10. Taxes levied.

For the purpose of raising revenue for defraying the expenses incident to the proper government of the town, the Board of Commissioners shall have power to levy a tax upon all taxable property within the town not to exceed the limit fixed by G.S. 160-402 for general purposes, and in addition thereto they shall annually levy and collect a tax ad valorem upon all the taxable property in the town sufficient to pay the principal of and the interest on all bonds and notes of the town as such principal and interest shall become due.

(Ord. No. 1965001, 5-26-1965)

Editor's note—G.S. 160-402 was repealed. For municipal taxation of property, see G.S. 160A-209.

Sec. 10A. Poll tax.

The Board of Commissioners may also levy and collect a poll tax not exceeding one dollar (\$1.00) under and pursuant to the provisions of the Constitution and the General Statutes of North Carolina.

(Ord. No. 1965001, 5-26-1965)

Editor's note—The poll tax is legally obsolete, in light of the 24th Amendment of the U.S. Constitution. In addition, the 1970 revision to the N.C. Constitution includes a prohibition on poll taxes. See art. V, § 1 of the N.C. Constitution.

Sec. 11. Commissioners may condemn, appropriate or use any land; compensation; right to appeal.

That the Board of Commissioners shall have power to lay out, open and name any street or streets within the corporate limits of said town whenever by them deemed necessary, and shall have power to widen, enlarge, change the grade of, extend or discontinue any street or streets or any part thereof within the corporate limits and shall have full power and authority for the purposes herein expressed to condemn, appropriate or use any land or lands within said town upon making reasonable compensation to the owner or owners thereof, and in case the owner or owners of any land which shall be condemned, appropriated or used under the provisions of this act, and the Board of Commissioners shall fail to agree upon the compensation for such land, the matter shall be settled by arbitrators, who shall be freeholders and residents of said town, and shall be chosen by the parties, one by the commissioners and the other by the owner of said land, and in case the owner of such land shall fail or refuse, upon notice given, to choose such arbitrator, then the mayor of said town shall select one in his stead, and in case the two chosen as aforesaid cannot agree, they shall select an umpire whose duty it shall be to examine the land to be condemned and ascertain the damages sustained and the benefit accruing to the owner in consequence of the change, and the award of the arbitrators and umpire, or any two of them, shall be conclusive of the rights of the parties, and shall vest in the Town of Waxhaw the right to use the land for the purpose herein specified; and all damages agreed upon by the parties or is awarded by the arbitrators in case of disagreement, shall be paid from the town treasury as other liabilities: Provided, that either party may appeal to the Superior Court, as now provided by law.

Sec. 12. Severability; exception of section 2.

That should it be decided that any of the other provisions of this act are unconstitutional and invalid, it is the intention of this General Assembly that section two of this act shall not thereby be affected, but shall remain in full force and effect.

Sec. 13. Repeal of other acts.

That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 14. Effective date.

That this act shall be in full force and effect from and after December thirty-first, one thousand nine hundred and nineteen.

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Legislation	Date	Section	Section this Charter
Pvt. Laws of 1919	3-3-1919	Ch. 57	Char. (note)
Ord. No. 1941001	3-12-1941	—	3
Ord. No. 1963001	5-7-1963	—	2
Ord. No. 1965001	5-26-1965	—	10
Ord. No. 1979001	2-27-1979	—	3
Ord. No. 1979002	5-21-1979	—	3
Ord. No. 2005001	8-9-2005	—	3
		—	4
Ord. No. 2007001	4-10-2007	—	4

PART II
CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

- Sec. 1-1. Definitions and rules of construction.
- Sec. 1-2. Designation and citation of Code.
- Sec. 1-3. Catchlines of sections; history notes; references.
- Sec. 1-4. Severability.
- Sec. 1-5. Supplementation of Code.
- Sec. 1-6. Official time.
- Sec. 1-7. Reasonable time; computing time.
- Sec. 1-8. Ordinances repealed.
- Sec. 1-9. Certain ordinances not affected by Code.
- Sec. 1-10. Effective date of ordinances.
- Sec. 1-11. Repeal or modification of ordinances.
- Sec. 1-12. Ordinances which amend Code; effect of new ordinances.
- Sec. 1-13. Relation to Charter.
- Sec. 1-14. General penalty.
- Sec. 1-15. Territorial applicability of Code.
- Sec. 1-16. Provisions considered as continuations of existing ordinances.
- Sec. 1-17. Code not to affect prior offenses, rights, etc.
- Sec. 1-18. Altering Code.

Sec. 1-1. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally.

- (1) All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Board of Commissioners may be fully carried out.
- (2) In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes greater restrictions upon the subject matter than the general provision imposed by this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Board, Board of Commissioners. Whenever the term "Board" or "Board of Commissioners" is used, it shall be construed to mean the Board of Commissioners of the Town of Waxhaw.

Charter. The term "Charter" means the Charter of the Town of Waxhaw, North Carolina.

Code. Whenever the term "Code" is used, it shall be construed to mean the "Waxhaw Code of Ordinances" as designated in section 1-2.

Computation of time. In computing any period of time prescribed or allowed by this Code, the

day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday.

State law reference—Computation of time, G.S. 1-593.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows, except that the terms "and" and "or" may be interchangeable:

- (1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.
- (2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) The term "either ... or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

Corporate limits, town limits. The term "corporate limits" or "town limits" means the legal boundaries of the Town of Waxhaw.

County. The term "county" means the County of Union, North Carolina.

Delegation of authority. Whenever a provision appears requiring the head of a town department or some other town officer or town employee to do some act or perform some duty, it shall be construed to authorize the head of the depart-

ment or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty.

Gender. Words of one gender include all other genders.

Governor. The term "governor" means the Governor of North Carolina.

G.S. or General Statutes. The abbreviation "G.S." refers to the latest edition of the General Statutes of North Carolina, as amended.

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.

Legislative body. The term "legislative body" means the town mayor and legislative body, or governing body, of the Town of Waxhaw, North Carolina.

May. The term "may" means the act referred to is permissive.

Month. The term "month" means a calendar month.

Number. Words used in the singular include the plural and the plural includes the singular number.

Oath, swear, sworn, affirm, affirmed. The term "oath" means 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. Whenever any officer, office, employee, commission, department, etc., is referred to by title, such reference shall be construed as if followed by the terms "of the Town of Waxhaw" unless the context clearly requires otherwise.

Official time standard. Whenever certain hours are named in this Code, they mean standard time or daylight saving time as may be in current use in the town.

Owner. The term "owner," when applied to any property, includes 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. The term "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 term "person" or "whoever," as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers or agents thereof.

Personal property. The term "personal property" means every species of property, except real property.

Preceding or following. The term "preceding" or "following" means next before or next after, respectively.

Property. The term "property" includes real and personal property.

Real property. The term "real property" includes lands, tenements and hereditaments.

Shall. The term "shall" means the act referred to is mandatory.

Sidewalk. The term "sidewalk" means any portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

Signature or subscription. The term "signature" or "subscription" includes a mark when the person cannot write.

State. The term "state" means the State of North Carolina.

Street. The term "street" means 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.

Tenant or occupant. The term "tenant" or "occupant," when applied to a building or land, includes 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 term "town" means the Town of Waxhaw, North Carolina.

Written. The term "written" means any representation of words, letters or figures, whether by printing or otherwise.

Year. The term "year" means a calendar year, unless otherwise expressed.

Zoning administrator. The term "zoning administrator" means one designated by the legislative body or the town manager.
(Code 2015, § 10.05)

Sec. 1-2. Designation and citation of Code.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as the "Waxhaw Code of Ordinances" or the "Waxhaw Town Code," and may be so cited.
(Code 2015, § 10.01)

Sec. 1-3. Catchlines of sections; history notes; references.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall

they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

(c) State law references and editor's notes and other references following certain sections or presented in footnote form are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

(d) Unless stated otherwise, all references to sections or chapters are to sections or chapters of this Code.
(Code 2015, § 10.04)

Sec. 1-4. Severability.

It is hereby declared to be the intention of the Board of Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.
(Code 2015, § 10.07)

Sec. 1-5. Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the Board of Commissioners. A supplement to this Code shall include all substantive permanent and general parts of ordinances passed by the Board of Commissioners or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in this Code, and shall

also include all amendments to the Charter during such period. The pages of a supplement shall be so numbered that they will fit properly into this Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, this Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of this Code which have been repealed shall be excluded from this Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate organizational units.
- (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in this Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in this Code.
- (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to this Code.
- (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
- (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections ___ through ___" (insert-

ing section numbers to indicate the sections of this Code that embody the substantive sections of the ordinance incorporated in this Code).

- (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted into this Code.
(Code 2015, § 10.10)

Sec. 1-6. Official time.

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

(Code 2015, § 10.11)

Sec. 1-7. Reasonable time; computing time.

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.

(Code 2015, § 10.12)

State law reference—Computation of time, G.S. 1-593.

Sec. 1-8. 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.

(Code 2015, § 10.13)

Sec. 1-9. Certain ordinances not affected by Code.

(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 affects the validity of any ordinance or portion of an ordinance listed below. All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein and are on file in the town clerk's office.

- (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;
- (16) Any personnel ordinance;
- (17) That is temporary, although general in effect; and/or
- (18) That is special, although permanent in effect.

(Code 2015, § 10.14)

State law reference—Statutes not repealed by General Statutes, G.S. 164-7.

Sec. 1-10. 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.

(Code 2015, § 10.15)

Sec. 1-11. 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 dis-

charged, 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.
(Code 2015, § 10.16)

Sec. 1-12. 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.

(b) 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.

(c) Amendments to any of the provisions of this 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 Waxhaw Code of Ordinances is hereby amended as follows" The new provisions shall then be set out in full as desired.

(d) If a new section not heretofore existing in this Code is to be added, language substantially similar to the following shall be used: "The Waxhaw Code of Ordinances 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.

(e) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.
(Code 2015, § 10.17)

Sec. 1-13. Relation to Charter.

(a) This Code, or any part thereof, shall not be interpreted so as to alter or modify the requirements of the Town's Charter relating to the power and authority granted therein to the town, the town legislative body or any individual Town official.

(b) It is the intent of this Code to establish provisions and procedures for implementing and expediting town powers and duties granted by the Charter.
(Code 2015, § 10.19)

Sec. 1-14. General penalty.

(a) In this section, the term "violation of this Code" means any of the following:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation, an infraction, a civil infraction or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
- (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation, an infraction, a civil infraction or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" does not include the failure of a town officer or town employee to perform an official

duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be guilty of a misdemeanor and punished by a fine of not more than \$500.00, and shall also be subject to a civil penalty not to exceed \$500.00 to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

(d) Any person violating an ordinance regulating the operation or parking of vehicles shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50.00.

(e) Each day any violation of this Code or of any ordinance or rule or regulation shall continue shall constitute a separate offense, except as may be otherwise specifically provided.

(f) Any provision of this Code 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 in accordance with G.S. 160A-175. Certain nuisance violations may be summarily abated in accordance with G.S. 160A-193.

(Prior Code, § 42-100; Code 2015, § 10.99; Ord. of 3-13-1995; Ord. of 8-14-2012)

State law reference—Enforcement of ordinances, G.S. 160A-175.

Sec. 1-15. Territorial applicability of Code.

All ordinances of the town are hereby extended to all real property and rights-of-way belonging to or under the control of the town outside the corporate limits of the town, and shall be in full force and effect therein insofar as they are applicable. Any words in any ordinance indicating that the effect of an ordinance provision is limited to the

corporate limits of the town shall also be deemed to mean and include outlying real property belonging to or under the control of the town unless the context clearly indicates otherwise.

State law reference—Ordinances effective on town property outside limits, G.S. 160A-176.

Sec. 1-16. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of ordinances adopted prior to the adoption of this Code and included herein, shall be considered as continuations thereof and not as new enactments.

Sec. 1-17. Code not to affect prior offenses, rights, etc.

Nothing in this Code or the ordinance adopting this Code shall affect 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.

Sec. 1-18. Altering Code.

It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this Code or to insert or delete pages, or any portions thereof, or to alter or tamper with such Code in any manner whatsoever except pursuant to ordinance or resolution or other official act of the city council which will cause the law of the city to be misrepresented thereby.

Chapter 2

ADMINISTRATION

Article I. In General

Secs. 2-1—2-18. Reserved.

Article II. Officials and Organizations

Sec. 2-19. Police department; reserve police force.
Sec. 2-20. Planning board.
Sec. 2-21. Historic preservation commission.
Sec. 2-22. Board of adjustment.
Sec. 2-23. ABC board.
Secs. 2-24—2-49. Reserved.

Article III. Town Policies

Sec. 2-50. Standards of conduct for town officials and employees.
Sec. 2-51. Smoking in municipal buildings.
Secs. 2-52—2-75. Reserved.

Article IV. Fee Schedule

Sec. 2-76. Adopted by reference.

ARTICLE I. IN GENERAL

Secs. 2-1—2-18. Reserved.

ARTICLE II. OFFICIALS AND ORGANIZATIONS**Sec. 2-19. Police department; reserve police force.**

There is hereby established within the town police department, as a division thereof, a reserve police division. The reserve police force shall be a volunteer organization whose members shall serve without compensation, composed of as many members as may from time to time be determined by the chief of police and approved by the town manager.

(Prior Code, § 40-100; Code 2015, § 30.01; Ord. of 4-13-2004)

Sec. 2-20. Planning board.

(a) *Composition and term of office.* The Board of Commissioners shall appoint seven members, and two alternates, who shall serve the Board of Commissioners at the pleasure of the Board. The members shall be residents of the town. All appointed members shall serve a term for three years. Vacancies shall be filled for the unexpired portions of the terms in the same manner as the initial appointment. A quorum of the planning board shall consist of four members for the purpose of taking any official action. The term for each newly appointed member shall begin October 1 in the year appointed and shall terminate on September 30 in the final year of the member's term.

(b) *Organization, rules, meetings and records.* Within 30 days after the appointment, the planning board shall meet and elect a chairperson and create and fill offices as it may determine. The term of the chairperson and other officers shall be one year with eligibility for re-election. The board shall recommend rules for transaction of its busi-

ness for Board of Commissioners' approval and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. The minutes shall be on file at the town offices for public inspection. The board shall hold meetings as described in adopted policies and procedures. (Prior Code, § 34-100; Code 2015, § 30.02; Ord. of 2-15-1990; Ord. of 7-13-2004; Ord. of 8-10-2004; Ord. of 12-13-2005)

Sec. 2-21. Historic preservation commission.

The historic preservation commission is hereby established in accordance with section 19 of the town's unified development ordinance. (Code 2015, § 30.03)

Sec. 2-22. Board of adjustment.

The board of adjustment is hereby established in accordance with section 15 of the town's unified development ordinance. (Code 2015, § 30.04)

Sec. 2-23. ABC board.

An ABC board is hereby established in accordance with G.S. 18B-700 et seq. The ABC board shall be made up of five members. (Code 2015, § 30.05)

Secs. 2-24—2-49. Reserved.

ARTICLE III. TOWN POLICIES**Sec. 2-50. Standards of conduct for town officials and employees.**

Town officials and employees shall comply with the Code of Ethics policy adopted by Resolution of March 8, 2016. (Prior Code, § 100-52; Code 2015, § 31.01; Res. of 6-12-2007; Res. of 3-8-2016)

Sec. 2-51. Smoking in municipal buildings.

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

Smoking means the inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette, vape or other combustible tobacco product.

(b) *General prohibition.* It shall be unlawful for any person to smoke or vape in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the town.

(Prior Code, § 39-100; Code 2015, § 31.03; Ord. of 9-13-1993)

Secs. 2-52—2-75. Reserved.

ARTICLE IV. FEE SCHEDULE

Sec. 2-76. Adopted by reference.

The town's fee schedule as adopted annually by the Board of Commissioners is kept on file in the office of the town clerk.

(Code 2015, § 32.01)

Chapters 3—5

RESERVED

Chapter 6

ALCOHOLIC BEVERAGES

Article I. In General

Secs. 6-1—6-18. Reserved.

Article II. Beer and Wine

- | | |
|------------|----------------------------------|
| Sec. 6-19. | License required. |
| Sec. 6-20. | Application procedure; issuance. |
| Sec. 6-21. | Retail tax. |
| Sec. 6-22. | Wholesale tax. |
| Sec. 6-23. | Duration; no proration. |
| Sec. 6-24. | Sunday sales. |
| Sec. 6-25. | Penalties. |

ARTICLE I. IN GENERAL**Secs. 6-1—6-18. Reserved.****ARTICLE II. BEER AND WINE****Sec. 6-19. License required.**

(a) Every person desiring to sell at retail or wholesale within the town any of the beverages defined and enumerated in G.S. 18B-101, as amended, shall first obtain a license from the tax collector. It shall be unlawful for any person to operate business within the town without having paid and obtained the license tax. No such license shall be issued by the tax collector until the applicant has obtained the appropriate permit from the state board of alcoholic control as provided by G.S. ch. 18B. The license tax must be paid before the person opens for business and is due May 1 of each subsequent year. The license must be posted in a conspicuous place at the business.

(b) The issuance of a license under this article does not authorize the carrying on of a business for which additional licenses or qualifications are required by state or local law, nor does the issuance of a license prevent the town from enforcing or enacting other regulations applicable to the licensee. The license may be revoked or suspended upon the licensee's violation of local or state laws related to the business operations.

(Ord. No. 2018005, § 110.01, 2-27-2018)

Sec. 6-20. Application procedure; issuance.

(a) Application for a license shall be made upon forms provided by the tax collector and shall be verified by the affidavit of the applicant made before a notary public or other person duly authorized by law to administer oaths. The application shall contain the information required under G.S. 105-113.70, and shall require the applicant to state whether he has, during the preceding license year,

committed any act or permitted any condition for which his license was, or might have been, revoked or suspended.

(b) If from the statements and information provided in the application the applicant appears to possess all requisite qualifications under law, including a statement that he has not, during the preceding license year, committed any act or permitted any condition for which his license was, or could have been, revoked or suspended, thereby making issuance of the license mandatory pursuant to G.S. 105-113.70, the tax collector shall issue the applicant a license.

(Ord. No. 2018005, § 110.02, 2-27-2018)

Sec. 6-21. Retail tax.

(a) Licenses issued by the town under the authority of G.S. 105-113.77, as amended, shall be restricted to on-premises and off-premises as prescribed by G.S. ch. 18B.

(b) Every person engaged in the business of selling malt beverages, as defined in G.S. 18B-101(9), as amended, shall pay an annual license tax as follows:

For on-premises malt beverages	\$15.00
For off-premises malt beverages	\$5.00

(c) Every person engaged in the business of selling fortified wine, as defined by G.S. 18B-101(7), as amended, and/or selling unfortified wine, as defined by G.S. 18B-101(15), as amended, shall pay an annual license tax as follows:

For on-premises unfortified wine, on-premises fortified wine, or both	\$15.00
For off-premises unfortified wine, off-premises fortified wine, or both	\$10.00

(d) If any person maintains more than one place of business from which retail malt beverages or fortified wine is sold, a separate license tax shall be paid for each separate place of business.

(e) The tax stated is for the first license issued to a person. The tax for each additional license of the same type issued to that person for the same year is 110 percent of the base license tax, that increase to apply progressively for each additional license.

(Ord. No. 2018005, § 110.03, 2-27-2018)

Sec. 6-22. Wholesale tax.

Every person selling at wholesale in barrels, bottles, or other containers, in quantities of not less than one case or container to a customer within the town, shall pay therefor an annual tax as follows:

- (1) Where such wholesaler sells at wholesale only malt beverages or wine as defined in G.S. 18B-101, as amended, the tax shall be, per annum: \$37.50.
- (2) Where such wholesaler sells at wholesale both malt beverages and wines as defined in G.S. 18B-101, the tax shall be, per annum: \$62.50.
- (3) If any wholesaler maintains more than one place of business or storage warehouse from which orders are received or beverages are distributed, a separate license tax shall be paid for each separate place of business or warehouse.
- (4) The owner or operator of every distributing warehouse selling, distributing or supplying to retail stores beverages enumerated in this section shall be deemed wholesale distributors within the meaning of this section and shall be liable for the tax imposed hereby.

(Ord. No. 2018005, § 110.05, 2-27-2018)

Sec. 6-23. Duration; no proration.

Every license issued under this article shall expire on April 13 of each year. The taxes paid under this article are not prorated.

(Ord. No. 2018005, § 110.06, 2-27-2018)

Sec. 6-24. Sunday sales.

Pursuant to the authority granted by Session Law 2017-87, any establishment located in the corporate limits of the town and holding an ABC permit issued pursuant to G.S. 18B-1001 is permitted to sell beverages allowed by its permit beginning at 10:00 a.m. on Sundays.

(Prior Code, § 44-100; Code 2015, § 130.03; Ord. of 11-13-1995; Ord. of 7-27-2010; Ord. No. 2017005, § 1, 8-22-2017)

Sec. 6-25. Penalties.

(a) Any person violating any section of this article shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be subject to punishment in accordance with G.S. 14-4. Unless otherwise provided, the maximum fine for a misdemeanor violation is \$500.00. Each day's continuing violation shall be a separate and distinct offense.

(b) In addition to criminal enforcement, the town may seek any remedies allowed under G.S. 160A-175, including, but not limited to, an injunction.

(c) If payment is not timely made, there shall be assessed an additional tax equal to ten percent of the amount due for the first 30 days and 20 percent of the amount due after 30 days, but in no event shall any late assessment be less than \$5.00. The town may further seek collection of amounts due through the remedies of levy, sale, attachment and garnishment in accordance with G.S. 160A-207 and in the same manner and to the same extent as apply to taxes levied by the state as stated in G.S. 105-109 as per the provisions of G.S. 105-242.

(Ord. No. 2018005, § 110.07, 2-27-2018)

Chapters 7—9

RESERVED

Chapter 10

ANIMALS

Article I. In General

- Sec. 10-1. Office of the town animal control officer.
- Sec. 10-2. Chickens allowed in town; permit.
- Sec. 10-3. Hog pens.
- Sec. 10-4. Livestock running at large.
- Sec. 10-5. Dogs and cats as nuisances.
- Secs. 10-6—10-28. Reserved.

Article II. Domestic Animals

- Sec. 10-29. Animal licensing.
- Sec. 10-30. Number and restraint of animals.
- Sec. 10-31. Abuse of animals; leaving animals in vehicles.
- Sec. 10-32. Breeders and animal rescue.
- Sec. 10-33. Dangerous dogs.
- Sec. 10-34. Authority of animal control officers.
- Sec. 10-35. Interference with duties.
- Sec. 10-36. Impoundment.
- Sec. 10-37. Rabies vaccination; confinement.
- Sec. 10-38. Prohibition of animals at town-sponsored events.
- Sec. 10-39. Exotic or wild animals.
- Sec. 10-40. Stray animals.
- Sec. 10-41. Destruction of animals by officers.
- Sec. 10-42. Beekeeping.
- Sec. 10-43. Penalty.

ARTICLE I. IN GENERAL

Sec. 10-1. Office of the town animal control officer.

There is hereby created the office of the town animal control officer. It shall be the duty of the animal control officer to see that the provisions of this chapter and related state statutes are strictly enforced within the police jurisdiction of the town. The animal control officer shall be directly responsible to the chief of police or his designee. It shall be the duty of the animal control officer to cooperate with the animal control officers in the county in any manner which will more efficiently and effectively carry out the terms of this chapter. (Code 2015, § 90.01; Ord. of 4-26-2011; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.01), 2-27-2018)

Sec. 10-2. Chickens allowed in town; permit.

(a) Live chickens shall be allowed in the town's municipal limits with a valid permit, as provided herein.

(b) The applicant for a chicken permit shall comply with the following provisions before a permit is issued:

- (1) The chickens must be confined in a chicken coop not less than four square feet of floor area for each chicken. Chicken coops must not be lower than 24 inches from the ground or higher than 25 feet from the ground;
- (2) Chickens may be allowed outside their coops during daytime hours if temporary fencing is constructed to restrict the chickens from leaving the owner's or possessor's property. The temporary fencing must be completely enclosed and removed when chickens are in coops. The temporary fencing must also have a top cover. In no such case shall the temporary fencing be left

out overnight. If the owner or possessor wishes to allow the chickens to roam freely, a more permanent fencing is required to prevent the chickens from leaving the subject property (refer to the town's unified development ordinance for fencing requirements);

- (3) The chicken coop and/or property shall be kept clean, sanitary and free from accumulation of animal excrement and objectionable odors;
- (4) The chicken coop shall be a minimum of 30 feet from the nearest residence other than that of the owner and a minimum of five feet from the lot line;
- (5) No more than six chickens shall be kept or maintained on any individual lot. Chickens are prohibited on lots less than one-fourth acre (10,890 square feet) in size;
- (6) No male chickens/roosters shall be allowed;
- (7) The owner or possessor must pay an annual chicken permit fee in an amount established and/or modified by the town. Annual renewal fees must be paid on or before July 1;
- (8) If chickens are removed from the premises for a violation of this section or other applicable law, the owner or possessor is not allowed to obtain a chicken permit for a minimum of one year from the date of removal;
- (9) No slaughter or sale of slaughtered chickens is allowed within the town, unless expressly permitted by the town's unified development ordinance; and
- (10) It is recommended that the owner or possessor take an educational course on chicken care provided by the county cooperative extension office.

(c) The permit may be revoked upon violation of the terms and provisions of this section. Permits shall not be issued and may be revoked if the chicken is likely to endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance to nearby residents or occupants or places of business.

(Code 2015, § 90.02; Ord. of 9-8-2009; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.02), 2-27-2018)

Sec. 10-3. Hog pens.

It shall be unlawful for any person to have or maintain any farm animals, such as, but not limited to, cows, pigs, hogs, turkeys, mules, donkeys, goats and sheep, on his premises in the town, except horses meeting the standards of the town's unified development ordinance. The farm animal prohibition shall not apply to bona fide farms of 20 acres or more (which 20 acres may include contiguous bona fide farmland outside the town limits). In addition, existing farm animals not on bona fide farms of 20 acres or more may remain, but shall not be replaced nor shall their numbers be increased.

(Prior Code, § 3-109; Code 2015, § 90.03; Ord. of 2-17-1994; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.03), 2-27-2018)

Sec. 10-4. Livestock running at large.

It shall be unlawful for any person to allow his horse, mule, cattle, swine or other livestock to run at large within the incorporated limits of the town. For this chapter, the term "run or running at large" means off the premises of the owner and not under the control of the owner, immediate family member or agent, by leash, cord, chain or otherwise.

(Prior Code, § 3-111; Code 2015, § 90.04; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.04), 2-27-2018)

Sec. 10-5. Dogs and cats as nuisances.

(a) The actions of a dog or cat constitute a public nuisance when that 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 property.

(b) It shall be unlawful for any person to own, keep, possess or maintain a dog or cat in a manner so 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 a dog or cat are hereby declared to be a public nuisance and are therefore unlawful:

- (1) Allowing or permitting the dog or cat to damage the property of anyone other than its owner or keeper;
- (2) Maintaining dogs or cats in an environment of unsanitary conditions or lack of cleanliness, including, but not limited to, excessive animal waste, stagnant water, rotting food, and the like, which may be determined to be dangerous to the dogs or cats or to the public health, welfare or safety;
- (3) Allowing or permitting the dog or cat to bark, whine or howl, in an excessive or continuous fashion, or make noise in a manner or at times so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises;
- (4) Maintaining a dog that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicycles or vehicles off the owner's property;
- (5) Failing to confine a female dog while in heat in a building or secure enclosure provided. This section shall not be construed to prohibit the intentional breeding of an-

imals within an enclosed area on the premises of the owner of an animal which is being bred;

- (6) Failing to remove feces deposited by a dog on any public street, sidewalk, gutter, park or other publicly-owned property or private property unless the owner of the property has given permission allowing such use of the property. This shall not apply to visually impaired persons who have charge, control or use of a guide and/or service trained assistance dog or dog working in conjunction with a law enforcement or public safety function; or
- (7) Maintaining an animal that is diseased to a point of being dangerous to the public health.

(Prior Code, § 10-102; Code 2015, § 90.05; Ord. of 4-7-1987; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.05), 2-27-2018)

Secs. 10-6—10-28. Reserved.

ARTICLE II. DOMESTIC ANIMALS

Sec. 10-29. Animal licensing.

(a) All dogs shall be required to be licensed by the town on an annual basis with the licensing fee being \$20.00 per year per dog and \$15.00 per year per dog that has been spayed or neutered. The town may require proof that the animal is in fact spayed or neutered. The town may also establish various incentives as part of its licensing program, such as, but not limited to, microchipping and the like. Fees from the licensing programs will be used to support animal care and control.

- (1) It shall be unlawful for any person to use a registration tag for any dog other than for which the registration tag was issued.
- (2) It shall be unlawful for any owner to fail to provide a current registration tag as pro-

vided in this section. No registration or permit will be issued unless written proof of current rabies vaccination is shown at the time of application for registration.

- (3) It shall be unlawful for any owner of a dog to fail to provide said animal with a collar or harness to which a current registration tag issued under this section is securely attached. The collar or harness, with attached registration tag, must be worn by the animal at all times, except while the animal is participating in bona fide animal shows, obedience trails, tracking tests, field tests, training events or training schools, or other events sanctioned and supervised by a recognized organization, or except while the animal is involved in lawful hunting activities, provided that the animal's owner or keeper has the tag in their actual possession at these times.
- (4) Upon licensing an animal, the owner must show proof that the animal is current on rabies vaccinations and has been spayed and/or neutered by a licensed veterinarian.

(b) Owners of the following dogs shall complete an application for registration, but are exempt from paying the annual registration fee:

- (1) Service and/or trained assistance dog.
- (2) An animal, which is a working member of a law enforcement or public safety agency, regardless whether the animal is fertile or unfertile.

(c) The amount of any license tax imposed by this chapter shall be deemed a debt to the town. (Code 2015, § 90.19; Ord. of 6-2-1988; Ord. of 2-9-2010; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.19), 2-27-2018; Ord. No. 2018009, § 90.19(A), 3-27-2018)

Sec. 10-30. Number and restraint of animals.

(a) It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, excluding cats, to keep the animal upon his own premises unless the animal is under sufficient physical restraint such as a pen, kennel, leash, fence, invisible fence, electric fence (which is posted as having an electric fence) and hot wire. The minimum outdoor enclosure for each animal shall be ten feet by ten feet for the first animal, with an additional five feet by five feet for each additional animal. Additional animals temporarily residing at a property for fewer than 14 days shall be exempt for the additional square footage. All structures used to confine dogs shall be secure to prevent reasonable escape from the pen or kennel. The pen or kennel should be constructed in such a manner to prevent dogs from jumping over the fence and the area should be regularly maintained to prevent the tunneling by the dog in order to escape. All structures erected to house dogs shall comply with all zoning and buildings regulations of the town. All such structures shall be adequately ventilated, kept in a clean and sanitary condition, and have fresh food available as appropriate. Clean water should be available to the animal at all times.

(b) It shall be unlawful for any person to locate, keep or maintain more than a cumulative total of five dogs and/or cats per acre or portion thereof. This provision shall not apply to dogs under four months of age. Any person having more than a cumulative total of five dogs and/or cats per acre or portion thereof on the effective date of the ordinance from which this chapter is derived will be allowed to keep them on their property provided that all other requirements of the town's animal control ordinance are in compliance and all excess dogs and/or cats that are removed from the premises upon death or other means are not replaced. This provision shall not apply to registered and approved professional breeders or ani-

mal rescuers, as defined in section 10-32. In cases of special circumstances, the property owner (or the owner of the dogs and/or cats with the property owner's written consent) may appeal in writing to the animal control officer requesting to keep in excess cumulative total of five dogs and/or cats. The animal control officer shall file a written answer within 15 business days of receipt of the request. In the event that the request is denied, the person may appeal to the town manager within five business days of receipt of the denial and the town manager shall file an answer within ten business days of the receipt of the appeal.

(c) It shall be unlawful for any person owning or having possession, charge, custody, or control of any animal, excluding cats, to keep the animal off his premises unless the animal is under sufficient physical restraint of a leash (maximum ten feet long), cage bridle or similar effective device which restrains and controls the animal. Electronic collars are not allowed for off owner property use.

(d) It shall be unlawful for any person to locate, construct, reconstruct, alter, and maintain any kennel, pen or similar structure for the purposes of keeping any animal over four months of age unless such kennel, pen or similar structure is 50 feet or greater from the adjoining property owner's inhabited structure.

(e) The chaining or tethering of a dog is allowed on a temporary basis when the dog is chained or tethered to a fixed object and the dog is monitored by the dog's owner or person responsible for the care of the dog. The maximum time for a dog to be tethered or chained in this manner is two hours in a 24-hour period.

(Prior Code, § 10-101; Code 2015, § 90.20; Ord. of 2-5-1980; Ord. of 9-27-2011; Ord. No. 2016015, 9-13-2016; Ord. No. 2018006, exh. A(§ 90.20), 2-27-2018)

Sec. 10-31. Abuse of animals; leaving animals in vehicles.

It shall be unlawful to abuse an animal. Abuse may include, but is not limited to, beating, ill treatment through lack of food and/or water, lack of shelter, denying reasonable medical care, intentionally mutilating, encouraging the fighting of animals, maintaining a location for the demonstration or show of fighting animals, or containing an animal in a closed vehicle greater than 20 minutes or as otherwise defined by the North Carolina General Statutes.

(Code 2015, § 90.21; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.21), 2-27-2018)

Sec. 10-32. Breeders and animal rescue.

(a) Persons desiring to serve as a professional breeder or animal rescuer shall register with the town's animal control officer. The town's animal control officer may reject a professional breeder or animal rescuer registration if the facilities or conditions for the animals fail to comply with the terms and provisions of this chapter. In cases of denial, an appeal may be filed in writing to the town manager within five business days of the receipt of the denial. The town manager shall file an answer within ten business days of the receipt of the appeal.

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

Animal rescuer means and refers to a person, entity or group of persons who hold themselves out as an animal rescue, that accept, or solicit for dogs or cats with the intention of finding permanent adoptive homes or providing lifelong care for such dogs or cats, or who use foster homes as the primary means of housing dogs or cats.

Professional breeder means and refers to a person or entity engaged in the business of selling or breeding dogs or cats:

- (1) Who sells, exchanges, leases, or in any way transfers or offers to sell, exchange, lease, or transfer 31 or more dogs or cats in a 12-month period beginning on April 1 of each year;
- (2) Who owns or harbors four or more dogs or cats, intended for breeding, in a 12-month period beginning on April 1 of each year;
- (3) Whose dogs or cats produce a total of four or more litters within a 12-month period beginning on April 1 of each year; or
- (4) Who knowingly sells, exchanges, or leases dogs or cats for later retail sale or brokered trading.

(Code 2015, § 90.22; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.22), 2-27-2018)

Sec. 10-33. Dangerous dogs.

(a) Reference is made to G.S. chs. 67-4.1 and 67-4.2, which are incorporated herein by reference. The animal control officer of the town is designated as the person responsible for determining when a dog is a dangerous/potentially dangerous dog as defined and provided in G.S. ch. 67-4.1. The animal control officer shall notify the owner of such determination in writing setting forth the reasons for the determination. Incidences involving the killing or severe injury on a person or subsequent violations of this chapter may result in the animal control officer declaring termination of ownership rights and disposing of the dog in a humane manner.

(b) The Board of Commissioners is designated to hear any appeal. The animal control officer's classification for a dog as a dangerous/potentially dangerous dog (including any termination of ownership rights) may be appealed by filing a written

objection with the town clerk within three business days of the classification. The Board of Commissioners will schedule the appeal for a hearing within ten days of the filing of the objection. The dog shall be impounded during the pendency of any appeal of such classification; provided, however, that the animal control officer has the authority to authorize that the dog remain on the premises or elsewhere prior to the hearing if the animal control officer is satisfied that the dog can be confined in an adequate manner to protect the public.

(c) A dangerous/potentially dangerous dog allowed to remain on the premises shall be kept, secured and restrained on the premises of the person owning or keeping such dog as follows:

- (1) In a building with doors, windows, and other exits securely fastened shut, and under the supervision and control of a responsible adult person capable of such supervision and control.
- (2) Securely kept in a locked pen or enclosure which is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children. The pen or enclosure must be inspected and receive written approval from the animal control officer. These provisions are in addition to the other requirements set forth in this chapter.
- (3) The owner shall post at the entrance of the property where the dangerous/potentially dangerous dog is kept a sign clearly visible from the public right-of-way warning "Beware of Dog" or other information that a dangerous dog is kept on the property.

(d) No person owning, keeping or harboring such dangerous/potentially dangerous dog shall remove such dog from the premises where the dog resides except:

- (1) To bring such dog to a veterinarian or to the animal shelter;

- (2) To remove such dog permanently from the town; or
- (3) To provide bona fide exercise necessary for the dog's continued health.

In the event of such removal, the dog shall be securely leashed with a leash no longer than four feet in length in the hands and control of a responsible and competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(e) If the owner of a dangerous/potentially dangerous dog transfers ownership or possession of such dog to another person, the transferring owner shall provide written notice to:

- (1) The animal control officer stating the name and address of the new owner or possessor of the dog; and
- (2) The person taking ownership or possession of such dog specifying the dog's dangerous behavior and the town's determination of such dog as dangerous/potentially dangerous.

(Prior Code, § 10-101; Code 2015, § 90.23; Ord. of 6-8-2004; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.23), 2-27-2018)

Sec. 10-34. Authority of animal control officers.

Animal control officers shall have the authority provided by law (including all authority granted under G.S. 160A-186) to seize any animal, excluding cats, allowed to run at large in violation of this chapter. This shall include the authority in carrying out and performing their lawful duties, to enter upon private property, not including entry into a dwelling unit or other similar building, when the animal control officer has observed that animal running at large in violation of this chapter, and entry upon private property shall not be deemed to be a trespass.

(Prior Code, § 10-101; Code 2015, § 90.24; Ord. of 6-2-1988; Ord. of 9-27-2011)

Sec. 10-35. Interference with duties.

It shall be unlawful for any person to interfere with, threaten or otherwise prevent an animal control officer from carrying out and performing his lawful duties, as described in section 10-34. (Prior Code, § 10-101; Code 2015, § 90.25; Ord. of 6-2-1988; Ord. of 9-27-2011)

Sec. 10-36. Impoundment.

It shall be the duty of the animal control officer to apprehend any animal found running at large, contrary to the provisions of this chapter, and/or state statutes, and to impound the dog in the county animal shelter. The owner shall be notified in accordance with county regulations and disposition shall be in accordance with county regulations. In this chapter, the term "run or running at large" shall mean and refer to off the premises of the owner and not under the control of the owner, member of his immediate family or his properly designated agent, by leash, cord, chain or otherwise. The town may temporarily house the impounded animal prior to transfer to the county animal shelter. During this time, the town will only release such animal to the owner upon proof of ownership and compliance with all applicable rules and regulations.

(Prior Code, § 10-101; Code 2015, § 90.24; Ord. of 6-2-1988; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.24), 2-27-2018)

Sec. 10-37. Rabies vaccination; confinement.

(a) It shall be unlawful for the owner of any dog over four months of age to keep or maintain the dog unless it shall have been vaccinated against rabies by a licensed veterinary surgeon or a person duly licensed for such purposes by the commissioners of the county or the city or state agent in compliance with G.S. 130A-185. Any person inoculating a dog against rabies shall deliver to the owner or person in possession of the dog a metal tag, serially numbered, which tag shall indicate

inoculation against rabies and the year of the inoculation. This tag shall at all times be kept fastened to the collar of the dog.

(b) If a dog shall be believed to have rabies or if the dog shall have been bitten by a dog suspected of having rabies, the dog shall be confined by penning or otherwise securing and actually isolating the dog from other animals and shall be placed under the observation of a veterinarian at the expense of the owner for a period of two weeks from his confinement. The owner shall notify the town clerk of the fact that his dog has been exposed to rabies. At his discretion, the animal control officer is empowered to have the dog removed from the owner's premises to a veterinary hospital and there placed under observation for two weeks at the expense of the owner. It shall be unlawful for any person knowing or suspecting a dog to have rabies to allow the dog to be taken off his premises or beyond the limits of the town without the written permission of the animal control officer. Upon ascertaining that a dog is rabid, every owner or other person shall immediately notify the county animal shelter or an animal control officer, who shall either remove the dog to the shelter or humanely destroy it.

(Prior Code, § 10-101; Code 2015, § 90.27; Ord. of 6-2-1988; Ord. of 9-27-2011)

Sec. 10-38. Prohibition of animals at town-sponsored events.

(a) *General regulation.* It shall be unlawful for any person owning or having possession, charge, custody or control of any animal to take that animal, whether on a leash or not on a leash, into the boundaries of any town-sponsored public event or allow the animal to approach within 100 feet of the event, unless such event is specifically designated as exempt from this section as set forth in subsection (c) of this section. The boundaries of a town-sponsored event shall consist of any area

that is part of the event, including any public open space, parking area, street, sidewalk or other publicly-controlled, -owned or -maintained area.

(b) *Town-sponsored event defined.* As used herein, the term "town-sponsored event" shall mean and refer to any specific event sponsored (full or partial through financial or in-kind contributions) by the town and open to the public utilizing property that is controlled, owned or maintained by the town.

(c) *Exceptions.* This section shall not apply to the following:

(1) Those animals that are part of an authorized event or exhibit. The event coordinator or designee shall have the authority to specify the conditions for having such animals for the protection of the public and for the well-being of the animals.

(2) Service dogs.

(3) An animal which is a working member of a law enforcement or public safety unit.

(Code 2015, § 90.25; Ord. of 7-27-2010; Ord. of 9-27-2011; Ord. No. 2016015, 9-13-2016; Ord. No. 2018006, exh. A(§ 90.25), 2-27-2018)

Sec. 10-39. Exotic or wild animals.

(a) As used herein, the term "exotic or wild animals" shall mean and refer to an animal that would ordinarily be confined to a zoo, or one that would ordinarily be found in the wilderness of this or any other country or 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, ocelots, bobcats, wolves, hybrid wolves, venomous reptiles, and other such animals. Such animals are further defined as those mammals or non-venomous reptiles weighing over 50 pounds at maturity, which are known at law as

ferae naturae. 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.

(b) No person, firm, or corporation shall keep, maintain, possess or have within the town any venomous reptile or any other wild or exotic animal. It is unlawful to keep or harbor or breed or sell or trade any wild or exotic animal as a pet, for display or for exhibition purposes, whether gratuitously or for a fee. Exemptions to this rule include lawfully operated pet shops, zoos, veterinarians, wildlife rehabilitators with proper permits and scientific research facilities.

(Code 2015, § 90.26; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.26), 2-27-2018)

Sec. 10-40. Stray animals.

(a) No person shall knowingly and intentionally harbor, feed or keep in possession by confinement or otherwise any domesticated animal which does not belong to him, unless the person has, within 72 hours from the time such animal comes into his possession, notified the town police department.

(b) It shall be unlawful to refuse to surrender any such stray to a town police or animal control officer upon demand.

(Code 2015, § 90.27; Ord. No. 2018006, exh. A(§ 90.27), 2-27-2018)

Sec. 10-41. Destruction of animals by officers.

In absence of the owner, at the request of an owner, or in the case of a wild animal, any town police or animal control officer may, at his discretion for any human reason, immediately dispose of or destroy an animal. Further, if any dangerous, vicious or fierce animal cannot, in the discre-

tion of a town police or animal control officer, be safely taken up and impounded, such animal may be destroyed immediately.

(Code 2015, § 90.28; Ord. No. 2018006, exh. A(§ 90.28), 2-27-2018)

Sec. 10-42. Beekeeping.

Beekeeping shall be permitted as long as all hives and related areas are located at least 30 feet from any property or street line.

(Code 2015, § 90.29; Ord. of 2-17-1994; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.29), 2-27-2018)

Sec. 10-43. Penalty.

(a) In addition to the dangerous dog and impoundment provisions set forth herein, violators shall be subject to enforcement through the issuance of a citation. Citations may be delivered in person or sent by certified or registered mail to the violator at his last-known address. The citation issued shall impose upon the violator a civil penalty as follows:

- (1) First offense..... \$100.00
- (2) Second offense 200.00
- (3) Third offense..... 300.00
- (4) Fourth offense..... 400.00
- (5) Fifth offense: \$500.00 and seizure of animal.

The violator may pay the citation to the town revenue collector at the address set forth on the citation within 14 days of the date of the citation in full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees authorized by this chapter.

(b) Violations accumulate per owner, not per animal. Second and subsequent offenses are based on offenses within any 12-month period. Each day's continuing violation shall constitute a separate offense. In the event that the owner or keeper

of an animal is a minor, the parent or guardian of such minor shall be held liable for a violation of this chapter.

(c) In the event that the violator does not appear in response to the described citation or the civil penalty is not paid with the period prescribed, a criminal summons may be issued against the violator for violation of this chapter and, upon conviction, the violator shall be punished as provided by state law and subject to a fine of not more than \$500.00 or imprisonment for not more than 30 days.

(Code 2015, § 90.99; Ord. of 4-7-1987; Ord. of 6-2-1988; Ord. of 2-17-1994; Ord. of 6-8-2004; Ord. of 9-27-2011; Ord. No. 2018006, exh. A(§ 90.99), 2-27-2018)

Chapters 11—13

RESERVED

Chapter 14

BUILDINGS AND BUILDING REGULATIONS

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Secs. 14-1—14-18. Reserved.

Article II. Building Codes

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- Sec. 14-19. Scope.
- Sec. 14-20. Adoption of building code.
- Sec. 14-21. Adoption of plumbing code.
- Sec. 14-22. Adoption of mechanical code.
- Sec. 14-23. Adoption of electrical code.
- Sec. 14-24. Adoption of fire prevention code.
- Sec. 14-25. Amendments.
- Sec. 14-26. Compliance with codes required.
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Division 2. Permit Provisions

- Sec. 14-58. Permits required.
- Sec. 14-59. Application.
- Sec. 14-60. Plans and specifications.
- Sec. 14-61. Limitations on issuance of permits.
- Sec. 14-62. Issuance.
- Sec. 14-63. Revocation.
- Sec. 14-64. Time limitations on validity of permits.
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Article III. Swimming Pools

Division 1. Generally

Secs. 14-91—14-108. Reserved.

Division 2. Barriers

- Sec. 14-109. Definitions.
- Sec. 14-110. Requirements for in-ground swimming pools.
- Sec. 14-111. Requirements for above-ground swimming pools.
- Sec. 14-112. Statutory amendment.
- Sec. 14-113. Penalty.
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WAXHAW CODE OF ORDINANCES

Article IV. Lock Boxes

- Sec. 14-140. Required.
- Sec. 14-141. Knox padlock system.
- Sec. 14-142. Knox key switch.
- Sec. 14-143. General provisions.
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ARTICLE I. IN GENERAL**Secs. 14-1—14-18. Reserved.****ARTICLE II. BUILDING CODES****DIVISION 1. GENERALLY****Sec. 14-19. Scope.**

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

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

(b) The adoption of the ordinance from which this article is derived and the codes herein adopted by reference shall constitute a resolution within the meaning of G.S. 143-138(e) making the regulatory codes herein adopted applicable to dwell-

ings and outbuildings used in connection therewith and to apartment buildings used exclusively as the residence of not more than two families. (Prior Code, § 53-101; Code 2015, § 150.01; Ord. of 12-11-2007)

Sec. 14-20. Adoption of building code.

The latest editions of the North Carolina State Building Codes and all appendices (Building Code, Administrative Code and Policies, Accessibility Code, Residential Code — One and Two Family Dwellings, Modular Construction Regulations, Volume IX-Existing Buildings, Rehab Code, Energy Code and MH-Regulations for Manufactured/Mobile Homes), as adopted by the state building code council, are hereby adopted by reference as fully as though set forth herein as the building code of the town and any reference to a particular section thereof shall include same as may be from time to time amended, modified, supplemented, revised or superseded.

(Prior Code, § 53-102; Code 2015, § 150.02; Ord. of 12-11-2007)

Sec. 14-21. Adoption of plumbing code.

The latest editions of the North Carolina State Plumbing Codes and all appendices (plumbing), as adopted by the state building code council, are hereby adopted by reference as fully as though set forth herein as the plumbing code of the town and any reference to a particular section thereof shall include same as may be from time to time amended, modified, supplemented, revised or superseded.

(Prior Code, § 53-103; Code 2015, § 150.03; Ord. of 12-11-2007)

Sec. 14-22. Adoption of mechanical code.

The latest editions of the North Carolina State Mechanical Codes and all appendices (mechanical, gas), as adopted by the state building code council, are hereby adopted by reference as fully as though set forth herein as the mechanical code

of the town and any reference to a particular section thereof shall include same as may be from time to time amended, modified, supplemented, revised or superseded.

(Prior Code, § 53-104; Code 2015, § 150.04; Ord. of 12-11-2007)

Sec. 14-23. Adoption of electrical code.

The latest edition of the North Carolina State Electrical Code (National Electrical Code, NFPA 70), as adopted by the state building code council, is hereby adopted by reference as fully as though set forth herein as the electrical code of the town and any reference to a particular section thereof shall include same as may be from time to time amended, modified, supplemented, revised or superseded.

(Prior Code, § 53-105; Code 2015, § 150.05; Ord. of 12-11-2007)

Sec. 14-24. Adoption of fire prevention code.

The latest edition of the North Carolina State Fire Prevention Code and all appendices (fire prevention), as adopted by the state building code council, is hereby adopted by reference as fully as though set forth herein as the fire prevention code of the town and any reference to a particular section thereof shall include same as may be from time to time amended, modified, supplemented, revised or superseded.

(Prior Code, § 53-106; Code 2015, § 150.06; Ord. of 12-11-2007)

Sec. 14-25. Amendments.

Amendments to the regulatory codes adopted by reference herein, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time such amendments are filed with the town clerk as provided in section 14-27.

(Prior Code, § 53-107; Code 2015, § 150.07; Ord. of 12-11-2007)

Sec. 14-26. Compliance with codes required.

(a) All buildings or structures which are hereafter constructed, reconstructed erected, altered, extended, enlarged, repaired, demolished or moved shall conform to the requirements, minimum standards and other provisions of the state building codes as set forth in section 14-20.

(b) Every building or structure intended for human habitation, occupancy or use shall have plumbing, plumbing systems or plumbing fixtures installed, constructed, altered, extended, repaired or reconstructed in accordance with the minimum standards, requirements and other provisions of the state plumbing codes as set forth in section 14-21.

(c) All mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel burning equipment and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the state mechanical codes as set forth in section 14-22.

(d) All electrical wiring, installations and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the state electrical code as set forth in section 14-23.

(e) All buildings and structures shall comply and be maintained in accordance with the minimum standards, requirements and other provisions of the state fire prevention code as set forth in section 14-24.

(Prior Code, § 53-108; Code 2015, § 150.08; Ord. of 12-11-2007)

Sec. 14-27. Copies to be filed with town clerk.

(a) An official copy of each regulatory code adopted herein, and official copies of all amendments thereto, shall be kept on file in the office of the town clerk.

(b) The copies shall be the official copies of the codes and the amendments.

(Prior Code, § 53-109; Code 2015, § 150.09; Ord. of 12-11-2007)

Secs. 14-28—14-57. Reserved.

DIVISION 2. PERMIT PROVISIONS

Sec. 14-58. Permits required.

(a) *Building permit.*

- (1) No person shall commence or proceed with the construction, reconstruction, alteration, repair, removal or demolition of any building or other structure, or any part thereof, without a written permit therefor from the inspection official.
- (2) County board of health approval of property for any septic tank is required where the sewage system cannot be connected to the public sewer.

(b) *Plumbing permit.*

- (1) No person shall commence or proceed with the installation, extension or general repair of any plumbing system without a written permit therefor from the plumbing inspector.
- (2) However, no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing if the repairs or replacements do not disrupt the original water supply or the waste or ventilation systems.
- (3) Board of health approval of property for any septic tank is required where the sewage system cannot be connected to the public sewer.

(c) *Mechanical permit.*

- (1) No person shall commence or proceed with the installation, extension, alteration or general repair of any heating or cooling equipment system without a written permit therefor from the mechanical inspector.
- (2) However, no permit shall be required for minor repairs or minor burner services of filter replacements of warm air furnaces or cooling systems.

(d) *Electrical permit.*

- (1) No person shall commence or proceed with the installation, extension, alteration or general repair of any electrical wiring, devices, appliances or equipment without a written permit therefor from the electrical inspector.
- (2) However, no permit shall be required for minor repair work, such as the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed.
- (3) No permit shall be required for the installation, alteration or repair of the electrical wiring, devices, appliances and equipment installed by or for an electrical public utility corporation for the use of the corporation in the generation, transmission, distribution or metering of electrical energy, or for the use of the corporation in the operation of signals or the transmission of intelligence.

(e) *Demolition or removal permit.* No persons shall commence or proceed with the demolition or removal of a structure without a permit issued by the building inspector of the town.

(Prior Code, § 53-110; Code 2015, § 150.20; Ord. of 12-11-2007)

Sec. 14-59. Application.

(a) Written application shall be made for all permits required by this division and shall be made on forms provided by the inspection department or its authorized representative.

(b) The application shall be made by the owner of the building or structure affected or by his authorized agent or representative, and, in addition to other information as may be required by the appropriate inspector to enable him to determine whether the permit applied for should be issued, shall show the following:

- (1) Name, residence and business address of owner;
- (2) Name, residence and business address of authorized representative or agent, if any; and
- (3) Name and address of the contractor, if any, together with evidence that he has obtained a certificate from the appropriate state licensing board for contractors, if such is required for the work involved in the permit for which an application is made.

(Prior Code, § 53-110; Code 2015, § 150.21; Ord. of 12-11-2007)

Sec. 14-60. Plans and specifications.

(a) Detailed plans and specifications shall accompany each application for permit when the estimated total cost of the building or structure is in excess of \$30,000.00 and for any other building or structure where plans and specifications are deemed necessary by the appropriate inspector in order for him to determine whether the proposed work complies with the appropriate regulatory codes.

(b) Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed and the plans and specifications together shall contain information sufficient to

indicate the nature and extent of the work proposed, and the plans and specifications together shall contain provisions of this article and the appropriate regulatory codes.

(c) Where plans and specifications are required, a copy of the same shall be kept at the work site until all authorized operations have been completed and approved by the appropriate inspector. (Prior Code, § 53-110; Code 2015, § 150.22; Ord. of 12-11-2007)

Sec. 14-61. Limitations on issuance of permits.

(a) No building permit shall be issued for any building or structure where the estimated total cost of which is more than \$30,000.00 unless the work is to be performed by a licensed general contractor.

(b) No building permit shall be issued for any building or structure, other than a one- or two-family dwelling, where the estimated total cost of which is more than \$30,000.00 unless the plans bear the state seal of a registered architect or a registered engineer.

(c) Where any provision of state law or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless it is to be performed by the licensed specialty contractor.

(d) Where detailed plans and specifications are required under this division, no building permit shall be issued unless the plans and specifications have been provided.

(Prior Code, § 53-110; Code 2015, § 150.23; Ord. of 12-11-2007)

Sec. 14-62. Issuance.

When proper application for a permit has been made, and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this article and the

appropriate regulatory codes, he shall issue the permit, upon payment of the proper fees as provided in section 14-66.

(Prior Code, § 53-110; Code 2015, § 150.24; Ord. of 12-11-2007)

Sec. 14-63. Revocation.

(a) The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for the revocation.

(b) Permits shall be revoked for any material departure from the approved application, plans or specifications; for refusal or failure to comply with proper orders of the inspector; for refusal or failure to comply with requirements of this article and the appropriate regulatory codes; or for false statements or misrepresentations made in securing the permit.

(Prior Code, § 53-110; Code 2015, § 150.25; Ord. of 12-11-2007)

Sec. 14-64. Time limitations on validity of permits.

(a) All permits issued under this division shall expire by limitation six months after the date of issuance if the work authorized by the permit has not been commenced.

(b) If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire.

(c) No work authorized by any permit which has expired shall thereafter be performed until a new permit therefor has been secured.

(Prior Code, § 53-110; Code 2015, § 150.26; Ord. of 12-11-2007)

Sec. 14-65. Changes in work.

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or

specifications involving any work under the jurisdiction of this article or of any regulatory code adopted herein, shall not be made until specific written approval of the changes or deviations has been obtained from the appropriate inspector.

(Prior Code, § 53-110; Code 2015, § 150.27; Ord. of 12-11-2007)

Sec. 14-66. Permit fees.

Fees for permits shall be according to the fee schedule established by the Board of Commissioners and maintained at town hall.

(Prior Code, § 53-110; Code 2015, § 150.28; Ord. of 12-11-2007)

Secs. 14-67—14-90. Reserved.

ARTICLE III. SWIMMING POOLS

DIVISION 1. GENERALLY

Secs. 14-91—14-108. Reserved.

DIVISION 2. BARRIERS

Sec. 14-109. Definitions.

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

Barrier means a fence, wall, building wall or combination thereof that completely surrounds and obstructs access to a swimming pool.

Swimming pool means an outdoor artificial structure intended for swimming or recreational bathing which contains water over 24 inches deep at any point and which is fitted with a filter for clarifying the pool water or is designed to be fitted with a filter, whether installed or not. The term "swimming pool" does not include public swim-

ming pools (which are regulated under G.S. 130A-280 et seq., and 15A NCAC 18A.2510), hot tubs or spas.

(Code 2015, § 151.01; Ord. of 9-5-2006)

Sec. 14-110. Requirements for in-ground swimming pools.

(a) *Barriers.* It shall be the responsibility of any person owning or maintaining an in-ground swimming pool to ensure that the pool is completely surrounded by barriers that conform to the following requirements :

- (1) The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier that faces away from the swimming pool.
- (2) The maximum vertical clearance between the bottom of the barrier and grade shall be two inches measured on the side of the barrier that faces away from the swimming pool.
- (3) Openings in the barrier shall not allow passage of a sphere that is four or more inches in diameter.
- (4) Solid barriers which do not have openings, such as masonry or stone walls, shall not contain indentations or protrusions (except for normal construction tolerances and tooled masonry joints) that could be used to climb the barriers.
- (5) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool side of the barrier. Spacing between vertical members shall not exceed 1¾ inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches in width.

- (6) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches or more, spacing between vertical members shall not exceed four inches. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches in width.
- (7) Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1¾ inches.
- (8) Maximum mesh size for chainlink fences shall be a 1¼ inches square unless the barrier is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1¾ inches.
- (9) Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

(b) *Gates.* It shall be the responsibility of any person owning or maintaining an in-ground swimming pool to ensure that any gate through which access to the pool may be gained complies with all of the requirements set forth in this section and also complies with the following:

- (1) Access gates shall be equipped to accommodate a locking device.
- (2) Access gates shall open outward away from the pool, be self-closing and have a self-latching device.
- (3) Where the release mechanism of a self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism and openings shall comply with the following:
 - a. The release mechanism shall be located on the pool side of the gate at least three inches below the top of the gate.

- b. The gate and barrier shall have no opening greater than one-half inch within 18 inches of the release mechanism.

(Code 2015, § 151.02; Ord. of 9-5-2006)

Sec. 14-111. Requirements for above-ground swimming pools.

(a) *Barriers.*

- (1) The outer walls of an above-ground swimming pool shall serve as barriers preventing access to the pool.
- (2) It shall be the responsibility of any person owning or maintaining an above-ground swimming pool to ensure that no permanent structures, equipment or other objects, other than the ladder, steps or other intended means of gaining access to the pool, are located near the pool such that they could be used to climb over the pool walls.

(b) *Gates.* Any means of access to an above-ground swimming pool, such as a ladder or steps, shall be capable of being secured, locked or removed to prevent access, or the ladder, steps or other access shall be surrounded by a barrier which meets the requirements of section 14-110. When the ladder, steps or other access are secured, locked or removed to prevent access, any opening created shall not allow the passage of a sphere four or more inches in diameter.

(Code 2015, § 151.03; Ord. of 9-5-2006)

Sec. 14-112. Statutory amendment.

(a) References in this division to a particular section of the state general statutes are intended to refer to a section as it may have been amended and as it may be amended in the future or to any successor statute.

(b) Therefore, if any section referenced herein is amended or superseded after adoption of the ordinance from which this division is derived, this division shall be deemed to refer to the amended section or to the section that most closely corresponds to the superseded section.

(Code 2015, § 151.04; Ord. of 9-5-2006)

Sec. 14-113. Penalty.

(a) *Denial of certificate of compliance or other final approval.* Failure to comply with sections 14-109 through 14-112 shall constitute grounds for the inspection department to deny a certificate of compliance or other final inspection approval.

(b) *Civil penalties.* Violations of sections 14-109 through 14-112 or failure to comply with any of its requirements shall be subject to the following civil penalties for each offense:

- (1) Warning citation: ten days to correct violation;
- (2) First citation: \$50.00;
- (3) Second citation: \$200.00; and
- (4) Third and subsequent citations: \$500.00.

(c) *Equitable relief from a court of law.* The town may seek equitable relief from a court of competent jurisdiction pursuant to G.S. 153A-123, which relief may include, but is not limited to, a mandatory or prohibitory injunction and order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises.

(d) *Removal by order of the Board.*

- (1) The Board of Commissioners may order the removal of a swimming pool and its appurtenances upon adequate notice, the right to a hearing, and the right to appeal, in accordance with G.S. 153A-140.
- (2) The expense of any action shall be paid by the person in default and, if not paid, shall

be a lien upon the land or premises upon which the pool is located and shall be collected as unpaid taxes.

(e) *Criminal penalties.* Violations of sections 14-109 through 14-112 or failure to comply with any of its requirements shall constitute a misdemeanor punishable by a fine of up to \$500.00 or up to 30 days' imprisonment.

(f) *Continuing violations.* Each day that any violation continues after notification of the violation by, or on behalf of, the inspection department may be considered a separate violation for purposes of the penalties and remedies set forth in this section.

(g) *Combination of penalties.* Any one, all or any combination of the foregoing penalties and remedies may be used to enforce sections 14-109 through 14-112.

(Code 2015, § 151.99; Ord. of 9-5-2006)

Secs. 14-114—14-139. Reserved.

ARTICLE IV. LOCK BOXES

Sec. 14-140. Required.

(a) Lock boxes are required for all commercial enterprises or industries in the town which use, store or manufacture on-site hazardous materials that must be reported under state right-to-know laws, G.S. 95-173 et seq., or under title III of the Federal Superfund Amendments and Reauthorization Act, being 42 USC 9601 et seq., and the regulations promulgated thereunder. All such commercial enterprises or industries must have an approved on-site hazardous materials data storage box at each facility where hazardous materials may be found.

(b) Lock boxes required for off-site alarms.

(1) Lock boxes are required for all business facilities which have a system which trans-

mits off-site alarms for fire detection or suppression systems. Such business facilities must have an approved on-site lock box which contains keys to provide fire department access in an emergency or alarm activation.

(2) Off-site alarms include local alarms in which strobes, horns, water motor gongs or other audible alarms may be heard or seen by the public.

(Prior Code, § 51-100; Code 2015, § 152.01; Ord. of 11-13-2007)

Sec. 14-141. Knox padlock system.

(a) Emergency entry.

(1) It is the purpose of the town and the fire department, in conjunction with section 506.1.1 of the state building code, to facilitate entry to all structures or gates secured by padlocks in an expedient manner in the event of an emergency.

(2) All structures or gates secured by padlocks must utilize a Knox padlock to secure gates, fire department connections, sprinkler valves, panic bars or any other area that a padlock is used for security to facilitate all actions to quickly control any emergency and return all services to normal.

(b) Where a Knox box rapid entry system containing a key to the padlock is used and is easily visible and accessible from the site the padlock is used, a Knox padlock is not required.

(Prior Code, § 51-100; Code 2015, § 152.02; Ord. of 11-13-2007)

Sec. 14-142. Knox key switch.

(a) All gated communities and businesses must install a Knox key switch on all gates or fences that restrict the access of emergency personnel, pursuant to state building code section 506.1.1.

(b) Where a Knox box rapid entry system containing a key to the gate control is easily accessible to responders, a Knox key switch is not required. (Prior Code, § 51-100; Code 2015, § 152.03; Ord. of 11-13-2007)

Sec. 14-143. General provisions.

(a) *Providing a key to the fire department.*

- (1) To comply with the state building code and town ordinance requirements, the town and the fire department require that a person provide a key that is capable of fitting all doors of the business to the fire department.
- (2) A fire department chief will place the key into the box.

(b) *Keys kept up to date; locks changed.*

- (1) Keys in boxes must be kept up to date.
- (2) When locks are changed, the fire department must be notified and new keys provided for the box.

(c) *Fire department and police department retain all keys; access.*

- (1) The fire department and town police department retain all keys to the Knox boxes.
- (2) All keys are inventoried and accounted for and no other fire, EMS or law enforcement agency has access to the keys.
- (3) No access would be permitted for inspection purposes or non-emergency situations without the business or building owner's consent.

(d) *Effective date.* This article shall only apply to businesses or facilities opening after the effective date of the ordinance from which this article is derived.

(Prior Code, § 51-100; Code 2015, § 152.04; Ord. of 11-13-2007)

Sec. 14-144. Penalty.

(a) Violations of this article shall be a misdemeanor as provided under G.S. 160A-175 and section 1-14.

(b) Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175(g).

(Prior Code, § 51-100; Code 2015, § 152.99; Ord. of 11-13-2007)

Chapters 15—17

RESERVED

Chapter 18

BUSINESS REGULATIONS

Article I. In General

Secs. 18-1—18-18. Reserved.

Article II. Peddlers and Solicitors

Sec. 18-19. Definitions.
Sec. 18-20. Purpose.
Sec. 18-21. License.
Sec. 18-22. Restrictions.
Sec. 18-23. Application.
Sec. 18-24. Penalties.

ARTICLE I. IN GENERAL

Secs. 18-1—18-18. Reserved.

ARTICLE II. PEDDLERS AND SOLICITORS**Sec. 18-19. Definitions.**

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

Peddler or solicitor means any individual whose business is conducted by traveling either by foot or by vehicle or any other means for the purpose of:

- (1) Selling or obtaining orders for the sale of goods, wares, merchandise or personal property of any kind, for present or future delivery;
- (2) Services to be furnished or performed either now or at a future date; or
- (3) Compiling information such as occupation; economic, social, religious or political status; number of occupants, etc., for the purpose of creating a directory or record book to be sold or used for a commercial purpose.

The term "peddler" does not include any federal census workers while collecting census information.

Within the limits of the town means all of the territory within the corporate limits of the town. (Ord. No. 2013001, § 112.02, 11-12-2013)

Sec. 18-20. Purpose.

The purpose of this article is to protect the public health, safety and welfare by regulating the solicitation and business activities of peddlers and solicitors within the town.

(Ord. No. 2013001, § 112.01, 11-12-2013)

Sec. 18-21. License.

(a) It shall be unlawful for any person to engage in the business as a peddler or solicitor within the limits of the town unless the provisions of this article have been complied with.

(b) Licenses pursuant to this article shall be valid for 30 days.

(c) Each individual peddler or solicitor is required to fill out an application per individual, not per employer/organization.

(d) Exemptions. The following persons and firms are exempt from the peddler's tax, but are still required to complete the application process:

- (1) Sellers of farm or nursery products they produced;
- (2) Sellers of crafts or goods they or their household produced;
- (3) Nonprofit charitable, educational, religious, scientific, or civic organizations;
- (4) Sellers of printed material, wood for fuel, ice, seafood, meat, poultry, livestock, eggs, dairy products, bread, cakes, or pies;
- (5) Licensed automobile dealers;
- (6) Peddlers who maintain a fixed permanent location from which they make at least 90 percent of their sales;
- (7) Peddlers who comply with G.S. 25A-38 through 25A-42 (consumer credit sales at residences with right to cancel) or G.S. 14-401.13 (off-premises sales of consumer goods or services of \$25.00 or more).

(e) Prior to issuance of a license, the police department will conduct a photograph, fingerprinting and a background check on the applicant. All applicable fees are to be paid by the applicant. The background check will be conducted to verify the

applicant's qualifications, pursuant to the conditions of this article, for issuance of the requested license.

(f) No license will be approved or denied until the verification process has been completed.

(g) The police chief or his designee has the authority to deny or revoke a license for just cause.

- (1) A license shall not be issued:
 - a. To any person who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs within the last ten years;
 - b. To any person who has been convicted of a felony, or misdemeanors involving drugs within the last ten years;
 - c. To any person who is on the current sexual offender registry;
 - d. To any person who has been convicted of a felony or misdemeanor to which the police chief or his designee reasonably believes may cause a threat to public safety;
 - e. To any person previously denied or who has had a license revoked pursuant to this article unless appropriate remedial measures are in place.
- (2) A license may be revoked if it is determined that:
 - a. The holder of the license violates any provisions of this article;
 - b. The holder of the license violates any provisions of applicable state or federal law, including, but not limited to, G.S. 66-250 et seq.; or
 - c. The holder of the license conducts himself in a manner constituting a public nuisance.

(Ord. No. 2013001, § 112.03, 11-12-2013)

Sec. 18-22. Restrictions.

No person shall stand or loiter in the main traveled portion, including the shoulders and median, of any highway or street, excluding sidewalks, or stop any motor vehicle for the purpose of soliciting employment, business or contributions from the driver or occupant of any motor vehicle that impedes the normal movement of traffic on the public highways or streets, provided that the provisions of this section shall not apply to licensees, employees or contractors of the department of transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering surveys. Hours of operation in any residential areas or residences shall be limited from 8:30 a.m. until 7:30 p.m. Peddlers and solicitors shall immediately leave a person's property upon request.

(Ord. No. 2013001, § 112.04, 11-12-2013)

Sec. 18-23. Application.

An application pursuant to this article shall be made on a form provided by the town. All prospective vendors, whether exempt from paying a license fee or not, must first file an application. The application must be filled out completely and truthfully with all the following information:

- (1) Name, address, phone number, and address of employer or organization.
- (2) Name, address and phone number of applicant.
- (3) Description sufficient for identification, date and place of birth (must be 18 years of age or older) and driver's license number or valid I.D.
- (4) If a vehicle is to be used, a complete description and license number.
- (5) Description of the goods to be sold or the services offered.
- (6) Dates requested (30 days maximum).

(7) Whether or not the applicant has been convicted of any crime or misdemeanor.
(Ord. No. 2013001, § 112.05, 11-12-2013)

Sec. 18-24. Penalties.

Any law enforcement officer may issue a violation notice subjecting the violator to:

- (1) A \$50.00 civil penalty to be paid within ten days for the first offense within a 12-month period;
- (2) A \$100.00 civil penalty to be paid within ten days for the second offense within a 12-month period; and
- (3) A \$250.00 civil penalty to be paid within ten days for the third and subsequent offenses within a 12-month period, which penalty may provide for an additional \$25.00 delinquency charge upon nonpayment, and which penalty and delinquency charge may be recovered by the town in a civil action.

The town may also seek an injunction under G.S. 160A-175 for repeated violations.
(Ord. No. 2013001, § 112.06, 11-12-2013)

Chapters 19—21

RESERVED

Chapter 22

CEMETERIES

Sec. 22-1. Cemeteries, memorial parks or memorial gardens.

Sec. 22-1. Cemeteries, memorial parks or memorial gardens.

(a) From and after the effective date of the ordinance from which this section is derived, it shall be unlawful for any person, firm, or corporation to erect, install, operate, suffer or permit to be operated any cemetery, memorial park or memorial gardens, or other place for the burial or interment of human bodies unless state certified.

(b) This section shall have no effect upon cemeteries, memorial parks, memorial gardens, or other places for the interment of human bodies established, erected, or operated prior to the effective date of the ordinance from which this section is derived.

(c) Violation of the terms of this section shall constitute a misdemeanor, and each day's operation of such cemetery, memorial park, memorial garden, or other place for the interment or burial of human bodies in violation of this section shall constitute a separate offence.

(Code 2015, § 93.45; Ord. No. 1966002, 5-19-1966; Ord. No. 2003001, 8-11-2003)

Chapters 23—25

RESERVED

Chapter 26

COMMUNITY PRESERVATION

(RESERVED)

Chapters 27—29

RESERVED

Chapter 30

EMERGENCIES

- Sec. 30-1. State of emergency.
- Sec. 30-2. Declaration.
- Sec. 30-3. Mayor's powers.
- Sec. 30-4. End of state of emergency.
- Sec. 30-5. Restrictions during emergency.
- Sec. 30-6. Subsequent declaration.
- Sec. 30-7. Unlawful acts.
- Sec. 30-8. List of commissioners to act in mayor's stead.

Sec. 30-1. State of emergency.

A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property.

(Code 2015, § 33.01; Ord. No. 2016004, exh. A, 2-23-2016)

Sec. 30-2. Declaration.

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 threatening danger to or destruction of property, the mayor is hereby authorized and empowered to issue a public declaration 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. The declaration shall be effective immediately upon publication.

(Code 2015, § 33.02; Ord. No. 2016004, exh. A, 2-23-2016)

Sec. 30-3. Mayor's powers.

The mayor is hereby authorized and empowered to limit by the declaration the application of all or any part of such restrictions to any area specifically designated or described within the corporate limits of the town and to specific hours of the day or night; and to exempt from all or any part of such restrictions law enforcement officers, fire department officers and other public employees, 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 op-

erated 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.

(Code 2015, § 33.03; Ord. No. 2016004, exh. A, 2-23-2016)

Sec. 30-4. End of state of emergency.

The mayor shall declare the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Board.

(Code 2015, § 33.04; Ord. No. 2016004, exh. A, 2-23-2016)

Sec. 30-5. Restrictions during emergency.

During the existence of a declared state of emergency, the mayor may impose by proclamation any or all of the following restrictions:

- (1) Prohibit or regulate the possession off of one's own premises of explosives, firearms, ammunition or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof, excluding lawfully possessed firearms or ammunition.
- (2) Prohibit or regulate the buying or selling of beer, wine or intoxicating beverages of any kind, and their possession, transportation or consumption off of one's own premises.
- (3) Prohibit or regulate any demonstration, parade, march, vigil or participation therein when taking place on any of the public ways or upon any public property.
- (4) Prohibit or regulate the possession, transportation or sale of gasoline, kerosene, naphtha or any other explosive or flammable fluids or substances.

- (5) Prohibit or regulate travel upon any public street, alley or roadway or upon any other public property and to except those in search of medical assistance, food or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof.
- (6) Prohibit or regulate the participation in or carrying on of any business activity, and the keeping open of places of business, places of entertainment, and any other public assembly of any nature whatsoever, including curfew and evacuation.
- (7) Regulate 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.

(Code 2015, § 33.05; Ord. No. 2016004, exh. A, 2-23-2016)

Sec. 30-6. Subsequent declaration.

Any declaration may be extended, altered or repealed at any particular time during the continued or threatened existence of a state of emergency by the issuance of a subsequent declaration. (Code 2015, § 33.06; Ord. No. 2016004, exh. A, 2-23-2016)

Sec. 30-7. Unlawful acts.

During the existence of a declared state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any declaration authorized by this chapter. Violations may be enforced in accordance with section 1-14 and subject the violator to a Class 2 misdemeanor in accordance with G.S. 14-288.20(A).

(Code 2015, § 33.07; Ord. No. 2016004, exh. A, 2-23-2016)

Sec. 30-8. List of commissioners to act in mayor's stead.

Each January after the biannual elections for town board members, the town board shall estab-

lish a list of board members designated to act in the mayor's stead during emergency situations when the mayor is unavailable. The list shall be by priority with the person available and nearest the top of the list designated to act for the mayor. If the mayor becomes available during the pendency of an emergency situation, the person acting in his stead shall relinquish the authority granted to the mayor.

(Code 2015, § 33.08; Ord. No. 2016004, exh. A, 2-23-2016)

Chapters 31—33

RESERVED

Chapter 34

HEALTH AND SANITATION

- Sec. 34-1. Open burning.
- Sec. 34-2. Filth, stagnant water and the like.
- Sec. 34-3. Weeds, grass and the like.
- Sec. 34-4. Above-ground storage tanks.
- Sec. 34-5. Penalty.

Sec. 34-1. Open burning.

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

Open burning means the burning of any matter in a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a chimney or a permitted air pollution control device.

Pile means a quantity of objects or materials stacked or thrown together in a heap.

Stack means a usually conical shaped pile of debris or material.

(b) *Prohibited acts.* No person shall ignite, cause to be ignited, permit to be ignited, allow or maintain, kindle or maintain within the corporate limits of the town any open burning fire.

(c) *Exceptions.* Exceptions shall include only the following:

- (1) Training fires set for the purpose of instruction and training of public and industrial employees in the methods of firefighting. All open burning for this purpose shall meet the requirements of all state and local regulations and the following:
 - a. Submit a permit request and burn plan at least 60 days prior to the proposed burn date to the town planner who routes the permit request to the county fire marshal's office and the county arborist (or their designees). The plan must describe all fire protection measures taken to ensure the fire will be contained on site;
 - b. There shall be a minimum distance from the nearest structure as deter-

mined by the fire marshal to prevent the spread of fire and minimize the hazard to adjacent exposures;

- c. Heritage or specimen trees (36 inches DBH or larger) shall be protected during any training fire. The requesting entity must consult with the town planner who routes the request to the county arborist and comply with such recommendations to protect any heritage or specimen trees located in the vicinity of the structure to be burned. Inability to protect a heritage or specimen tree, as determined by the town planner, shall be grounds to refuse a burn permit;
- d. A permit from the town planner is required prior to commencement of burning activities. The permit shall expire no later than 365 days from the issuance or such shorter time as set forth in the permit. A permit may be denied if the town planner determines that granting such permit would be adverse to public health and safety; would destroy historically significant structures; may damage heritage or specimen trees; or would otherwise be detrimental to the town as a whole;
- (2) Open fires for cooking, heating, religious and ceremonial fires shall be allowed when the fire is not composed, in whole or substantial part, of leaves or yard waste, and the location of the fire, and the items necessary for its containment, comply with the state fire prevention code; and provided that the emission of smoke and fumes do not irritate, annoy or constitute a nuisance to others. The fires shall be contained in a campfire pit, confined to a container no larger than a 55-gallon drum

or other device designed for the use. Fuels for the fires must be naturally cut wood, charcoal, propane or natural gas; no construction materials or building materials shall be permitted;

- (3) Bonfires, public or private, shall require a permit and are subject to approval of the fire marshal or designee. Approval will be granted on the sole discretion of the fire marshal or designee based upon recommendation from the fire department, taking the following into consideration:
- a. The proximity of the proposed fire to dwellings, trees, woods and other structures;
 - b. Facilities available for fire management;
 - c. Atmospheric conditions;
 - d. Type of material to be burnt must be naturally cut wood, ten inches in diameter or smaller; no construction materials or building materials;
 - e. The bonfire shall be no more than five feet by five feet by five feet in dimension and shall burn no longer than four hours; and
 - f. Any other consideration judged by the town planner or his designee, including any input from the local fire department, to be required to ensure safe burning;
- (4) On the sole discretion of the town manager, when there exists an extreme or emergency circumstance which lacks any other reasonable means of disposing of items which need to be disposed of, and not addressed in this section, the local fire department may make recommendations to the town manager to issue a permit to burn. These fires shall be limited to the

disposal of material generated during a natural disaster, such as a tornado, hurricane or flood; and/or

- (5) Fires set as part of commercial film or video production activities for motion pictures and television or fires set as part of a planned civic event designed to educate or otherwise benefit the public.
- a. The use of fireworks, pyrotechnic or flame effect devices used in conjunction with or to initiate the fires shall meet the following codes and standards:
 1. NFPA 106, Standard for Flame Effects Before an Audience;
 2. NFPA 1123, Code for Fireworks Display;
 3. NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience; and
 4. State Building Code Volume V, Fire Prevention Chapter 20.
 - b. Any person seeking to conduct a fire for these reasons shall obtain a permit and submit a plan in writing at least 30 working days prior to the burn to the town planner or designee. Such plan shall include the following:
 1. The name of the person, group or organization responsible for the production;
 2. The date and time of the production;
 3. The location of the production;
 4. The duration of the burn;
 5. A narrative description of the burn; and

6. A site plan showing the following:
 - (i) The location of the audience;
 - (ii) The area affected by the burn;
 - (iii) Means of egress; and
 - (iv) Fire protection features and locations.

(Prior Code, § 50-100; Code 2015, § 91.01; Ord. of 7-1-2007; Ord. of 4-27-2010)

Sec. 34-2. Filth, stagnant water and the like.

No person, firm or corporation shall allow his, its or their cellars, old wells, pools, drain barrels or any vessel to become offensive from filth, stagnant water or other cause.

(Prior Code, § 3-110; Code 2015, § 91.02)

Sec. 34-3. Weeds, grass and the like.

(a) *Unlawful conditions.* The following enumerated and described conditions, or any combination thereof, are hereby found, deemed and declared to constitute a detriment, danger and hazard to health, safety, morals and general welfare of the inhabitants of the town and are found, deemed and declared to be public nuisances wherever the conditions may exist and the creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

- (1) Any weeds or other vegetation having an overall height of 12 inches above the surrounding ground, provided that the following shall not be considered to be part of this condition: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants;

- (2) Any accumulation of trash and/or garbage which is the result of the absence of or overflowing or improperly closed trash or garbage containers;
- (3) Accumulation in an open place of hazardous or toxic materials and chemicals;
- (4) An open place of concentration of combustible items, such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags or any other combustible materials or objects of a like nature;
- (5) Any accumulation of garbage, rubbish, trash or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, mosquitoes or vermin of any kind which is or may be dangerous or prejudicial to the public health;
- (6) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health;
- (7) The open storage of any discarded ice box, furniture, refrigerator, stove, glass, building materials, building rubbish or similar items;
- (8) Any condition detrimental to the public health, which violates the rules and regulations of the county health department;
- (9) Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that

the town commissioners or their designee can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises; and

- (10) Any excavation, embankment or fill on private property that is or has become a nuisance, public health hazard, endangers property and/or adversely affects the safety, use or stability of a public way or drainage channel.

(b) *Notice to owner.*

- (1) When any condition in violation of this section is found to exist, the code enforcement officer or the person as may be designated by the town commissioners, shall issue a warning citation to the owner of the premises to abate or remove the condition within ten days.
- (2) The notice shall be in writing, include a description of the premises sufficient for identification, set forth the violation, and state that, if the violation is not corrected within ten days, the town may proceed to correct the same as authorized by this section.
- (3) Service of the notice shall be by any one of the following methods:
 - a. By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is over the age of 16 years and a member of the family of the owner;
 - b. By depositing the notice in the United States Post Office addressed to the owner at his last-known address with postage prepaid thereon; and
 - c. By posting and keeping posted for ten days a copy of the notice, in plac-

ard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be served by subsections (b)(3)a and (b)(3)b of this section.

(c) *Failure to comply.*

- (1) If the owner of any property fails to comply with the notice given pursuant to this section, within ten days after the service of the notice, he shall be subject to a civil penalty in the amount of \$100.00 and each day that the failure continues shall be a separate offense.
- (2) In addition to the civil penalty set forth in subsection (c)(1) of this section, the code enforcement officer may have the condition described in the notice summarily abated, removed or otherwise corrected if the condition is dangerous or prejudicial to the public health or public safety. All expenses incurred thereby shall be chargeable to and paid by the owner of the property. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred and the lien shall have the same priority and be collected as unpaid ad valorem taxes. Unpaid expenses may also become a lien and collected on other property owned by the person in default in accordance with G.S. 160A-193(b). Nothing contained in this section precludes the town from enforcing this section through a court-ordered injunction or order of abatement in accordance with G.S. 160A-175.
- (3) The town may notify chronic violators of this section that, if the violator's property is found to be in violation of such provision, the town shall, without further notice in the calendar year in which the notice is given, take action to remedy the

violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes as set forth in subsection (c)(2) of this section. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under this section.

(Prior Code, § 20-101; Code 2015, § 91.03; Ord. of 3-13-1978; Ord. of 10-24-1988; Ord. of 12-29-1988; Ord. of 6-14-1993; Ord. of 1-10-1994; Ord. of 9-10-2001; Ord. of 8-10-2004; Ord. of 8-14-2012)

Sec. 34-4. Above-ground storage tanks.

(a) The town desires to enact an ordinance, the purpose of which is to provide for orderly growth and development and to maintain conditions essential to the public health, safety and general welfare of the citizenry and in accordance with that, the town hereby enacts this section prohibiting the storage of petroleum products in above-ground storage tanks with the capacity that exceeds 600 gallons. A violation of this section would subject the violators to penalties prescribed by state law and the continued violation from day to day would be considered a separate violation. Tanks or tanks in any one aggregate shall not exceed 600 gallons in any one site or location of any one owner.

(b) A supply of petroleum or other fuel products (collectively, petroleum) for the town and the voluntary fire department is necessary to protect the public health and safety during shortages or emergencies. Accordingly, this provision shall not apply to the town or the voluntary fire department provided that the on-site tank does not exceed 2,000 gallons and petroleum is not sold to third parties.

(c) This section shall not apply to propane storage tanks.

(Code 2015, § 91.04; Ord. of 11-4-1986; Ord. of 4-27-2010)

Sec. 34-5. Penalty.

(a) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to section 1-14.

(b) Open burning violations.

(1) The town shall have the authority to summarily abate any condition, including with assistance from the local fire department, that is in violation of section 34-1 and that presents an immediate fire hazard to life or property.

(2) Any open burning in violation of section 34-1 shall be extinguished by the responsible party or the town, which may include assistance from the local fire department. All costs incurred by the town for enforcement of section 34-1 will be the responsibility of the party in violation of said section and will be added to the civil penalty.

(3) A civil penalty shall be issued to any person or company violating the provisions of section 34-1. The civil penalty for residential violations shall be \$50.00 and \$100.00 for any repeat violation. The civil penalty for commercial violations of section 34-1 shall be \$250.00 per stack or pile and \$500.00 per stack or pile for any repeat violation by the same person or company. Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175(g).

(c) Any person violating section 34-2, and refusing to clean out the same after being notified by the town police officers of its condition, shall pay a civil penalty of \$25.00 for every 24 hours the

cellar, old well, pool, drain barrel or vessel shall remain in that condition. Any person having the same rented or in his charge shall be held responsible for the offense and penalty.

(d) Any property that is in violation of section 34-3(a) shall be subject to the enforcement provisions set forth in section 34-3(c).

(e) The town may apply for appropriate equitable remedy from the general court of justice, including, but not limited to, mandatory and prohibitory injunctions and orders of abatement as allowed pursuant to G.S. 160A-175 for violations of any provision under this chapter. The civil actions may name as defendants any person creating, allowing the creation of, or assisting in the creation of any unlawful condition, including the owner of the premises from which the condition or noise emanates and the person having actual control of the premises.

(Prior Code, §§ 3-110, 17-100; Code 2015, § 91.99; Ord. of 11-9-1998; Ord. of 7-1-2007; Ord. of 8-14-2012; Ord. of 12-9-2014)

Chapters 35—37

RESERVED

Chapter 38

HOUSING

Article I. In General

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- Sec. 38-2. Title.
- Sec. 38-3. Exercise of police power.
- Sec. 38-4. Purpose.
- Sec. 38-5. Scope.
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Article II. Standards

- Sec. 38-29. General determination of dwelling as unfit.
- Sec. 38-30. Minimum standards for plumbing systems and equipment.
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- Sec. 38-33. Minimum standards for heating.
- Sec. 38-34. Minimum standards for space, use and location.
- Sec. 38-35. Minimum standards for safe and sanitary maintenance.
- Sec. 38-36. Minimum standards for control of insects, rodents and infestations.
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Article III. Administration and Enforcement

- Sec. 38-63. Code enforcement officer.
- Sec. 38-64. Enforcement.
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- Sec. 38-66. Housing appeals board.
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- Sec. 38-68. Penalty.

ARTICLE I. IN GENERAL**Sec. 38-1. Definitions.**

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

Abandoned structure means any building, structure, manufactured home or mobile home or part thereof not included in the definition of the term "dwelling" hereinbelow.

Dwelling means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any out-houses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home which is used solely for a seasonal vacation purpose. Temporary family health care structures, as defined in G.S. 160A-383.5, shall be considered dwellings for purposes of this chapter, provided that any provision requiring minimum square footage shall not apply to such structures.

Manufactured home or mobile home means a structure as defined in G.S. 143-145(7).

Owner means the holder of the title in fee simple and every mortgage of record.

Parties in interest means all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

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

Public officer means the officer who is authorized hereunder to exercise the powers prescribed herein.

(Code 2015, § 153.04; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-2. Title.

This chapter shall be known and may be cited as the "Minimum Housing Ordinance of the Town of Waxhaw."

(Code 2015, § 153.01; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-3. Exercise of police power.

In accordance with G.S. 160A-441, the Board of Commissioners finds that there exists in the town dwellings that are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals or otherwise inimical to the welfare of the residents of the town; and further finds that provision is needed for the repair, closing or demolition of abandoned structures, the Board of Commissioners expressly finding that certain abandoned structures exist which are a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities.

(Code 2015, § 153.02; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-4. Purpose.

In order to protect the health, safety and welfare of the residents of the town, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation; and, fur-

ther, to provide for the repair, closing or demolition of any abandoned structure which the Board of Commissioners finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities.

(Code 2015, § 153.03; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-5. Scope.

(a) The provisions of this chapter shall apply to the construction, alteration, repair, equipping, use, occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to the buildings or structures within the municipal limits.

(b) No provision of this chapter shall be held to deprive any federal or state agency, or any other authority having jurisdiction, of any power or authority which it had on the effective date of the ordinance from which this chapter is derived or any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law. (Code 2015, § 153.05; Ord. of 3-28-1988; Ord. of 4-12-1990)

Secs. 38-6—38-28. Reserved.

ARTICLE II. STANDARDS

Sec. 38-29. General determination of dwelling as unfit.

The code enforcement officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety or morals of the occupants of the dwelling,

the occupants of neighboring dwellings or other residents of the town. Defective conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident or other calamity; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness.

(Code 2015, § 153.20; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-30. Minimum standards for plumbing systems and equipment.

Every building and dwelling unit shall contain not less than the following for plumbing systems and equipment:

- (1) A connection to a potable water supply and to the public sewer supply and to the public sewer or other approved sewage disposal system.
- (2) Sink, lavatory, tub or shower and water closet.
 - a. A kitchen sink, lavatory, tub or shower and a water closet, all in good working condition and installed in accordance with the applicable plumbing code, and located within the dwelling unit and accessible to the occupants.
 - b. The water closet and tub or shower shall be located in a room affording privacy to the user.
- (3) Connections to cold and hot water; pipe distribution system.
 - a. Connections to the kitchen sink, lavatory and tub or shower of an adequate supply of both cold water and hot water.

- b. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

- (4) Installations of all hot water heating appliances according to the applicable plumbing code and capable of supplying a continuous source of hot water, on demand, to all the required fixtures at a temperature of not less than 120 degrees Fahrenheit.

(Code 2015, § 153.21; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-31. Minimum standards for ventilation.

Every building and dwelling unit shall contain not less than the following for ventilation:

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

of the skylight shall equal at least 15 percent of the total floor area of the room.

(2) *Habitable rooms.*

- a. Every habitable room shall have at least one window or skylight which can easily be opened or other device as will adequately ventilate the room.
- b. The total openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size, as required, or shall have other approved, equivalent ventilation.

- (3) *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.

(4) *Substitutions.*

- a. Year-round mechanically ventilating conditioned air systems may be substituted for windows, as required herein, in rooms other than rooms used for sleeping purposes.
- b. Window-type air conditioning units are not included in this exception.

(Code 2015, § 153.22; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-32. Minimum standards for electrical systems.

Every building and dwelling unit shall contain not less than the following for electrical systems:

- (1) Electric convenience receptacles.
 - a. Every building and dwelling unit shall be wired for electric lights and con-

venience receptacles. Every habitable room shall contain at least two floor or wall type electric convenience receptacles, connected in a manner as determined by the applicable electric code.

- b. 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.
- c. In the event wall or ceiling light fixtures are not provided in any habitable room, then each 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 should be maintained in a state of good repair, safe, capable of being used and installed in accordance with the applicable electric code.
- (4) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to carry adequately the total load as required by the applicable electrical code.

(Code 2015, § 153.23; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-33. Minimum standards for heating.

Every building and dwelling unit shall have facilities for providing heat in accordance with either subsection (1) or (2) of this section, as well as complying with subsection (3) of this section.

- (1) *Central and electric heating systems.* Every central or electric heating system shall be

of sufficient capacity so as to heat each dwelling unit to which it is connected with a minimum temperature of 68 degrees Fahrenheit measured at a point three feet above the floor during ordinary minimum winter conditions.

- (2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling unit shall be provided with sufficient fireplaces, chimney, flues or gas vents whereby heating appliances may be connected so as to furnish a minimum temperature of 68 degrees Fahrenheit measured at a point three feet above the floor during ordinary minimum winter conditions.
- (3) *Installation and maintenance.* Heating appliances and facilities shall be installed in accordance with the applicable building code and shall be maintained in a safe and good working condition.

(Code 2015, § 153.24; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-34. Minimum standards for space, use and location.

Every building and dwelling unit shall contain not less than the following for space, use and location:

- (1) *Dwelling unit.* 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 floor area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.
- (2) *Room sizes.*
 - a. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the applicable building code.

- b. In every dwelling 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 feet of floor area for each occupant under 12 years of age.
- (3) *Floor area calculation.*
- a. Floor area shall be calculated on the basis of habitable room area.
- b. However, closet area and hall area within the dwelling unit, where provided, may count for no more than ten percent of the required habitable floor area.
- c. The floor area of any part of any room where the ceiling height is less than 4½ feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy.
- (4) *Occupant.* For the purposes of this section, a person under one year of age shall not be counted as an occupant.
- (5) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet.
- (6) *Cellar.* No cellar shall be used for living purposes.
- (7) *Basements.* No basement shall be used for living purposes unless:
- a. The floor and walls are substantially watertight;
- b. The total window area, total openable window area and ceiling height are equal to those required for habitable rooms; and
- c. The required minimum window area of every habitable room is entirely above the grade adjoining the window area, except where the windows face a stairwell, window well or accessway.
- (Code 2015, § 153.25; Ord. of 3-28-1988; Ord. of 4-12-1990)
- Sec. 38-35. Minimum standards for safe and sanitary maintenance.**
- Every building and dwelling unit shall comply at least with the following for safe and sanitary maintenance:
- (1) *Exterior foundation wall and roofs.*
- a. Every foundation wall, exterior wall and exterior roof shall be substantially weather-tight, watertight and rodent-proof; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- b. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- (2) *Interior floors, 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 placed thereon.
- (3) *Floor area calculation.*
- a. Floor area shall be calculated on the basis of habitable room area.

- b. However, closet area and hall area within the dwelling unit, where provided, may count for no more than ten percent of the required habitable floor area.
 - c. The floor area of any part of any room where the ceiling height is less than 4½ feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy.
- (4) *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.
 - (5) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition.
 - (6) *Supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this Code shall be so constructed and installed that it will function safely and effectively, and shall be maintained in sound working condition.
 - (7) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.
 - (8) *Egress.* Every dwelling unit shall be provided with means of egress as required by the applicable building code.

- (9) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of noxious weeds or plant growth which are in excess of 24 inches, and which cause or threaten to cause a hazard detrimental to the public health and safety.

(Code 2015, § 153.26; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-36. Minimum standards for control of insects, rodents and infestations.

Every building and dwelling unit shall at least comply with the following for control of insects, rodents and infestations:

- (1) *Screens.* For protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed.
- (2) *Rodent control.* Every basement or cellar window used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or other approved device as will effectively prevent their entrance.
- (3) *Infestation.*
 - a. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for the extermination whenever his dwelling unit is the only one infested.

- b. Notwithstanding the foregoing provisions of subsection (2) of this section, whenever infestation is caused by failure of the actual owner to maintain a dwelling in a rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the actual owner, as opposed to the tenant/occupant.
 - c. 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 thereof shall be the responsibility of the owner, and not the tenants.
- (4) *Rubbish.* Every dwelling unit shall be supplied with adequate rubbish storage facilities.
 - (5) *Garbage.* Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, having a capacity of not more than 30 gallons per container. (Code 2015, § 153.27; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-37. Minimum standards for structural conditions.

Every building and dwelling unit shall at least comply with the following for structural conditions:

- (1) Walls or partitions or supporting members, sills, joints, rafters or other structural members shall not list, lean or buckle, and shall not be rotten, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.
- (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

- (3) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- (4) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in a condition that they will not fail or collapse.
- (5) Adequate facilities for egress in case of fire or panic shall be provided.
- (6) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
- (7) The roof, finishings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather-tight and watertight.
- (8) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling or in a condition or location as to constitute a fire hazard.
- (9) There shall be no use of the ground for floors or wood floors on the ground.

(Code 2015, § 153.28; Ord. of 3-28-1988; Ord. of 4-12-1990)

Secs. 38-38—38-62. Reserved.

ARTICLE III. ADMINISTRATION AND ENFORCEMENT

Sec. 38-63. Code enforcement officer.

(a) The public office of the code enforcement officer is hereby created and the inspector shall be appointed by the town manager and serve at the discretion of the town manager.

(b) The inspector is designated the public officer to exercise the powers prescribed by this chapter, as well as any powers necessary or convenient to carry out and effectuate the purpose and provisions hereof, including the following powers, in addition to others specifically granted elsewhere herein:

- (1) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;
- (2) To investigate any abandoned structure in the town in order to determine whether any structure should be repaired, closed or demolished;
- (3) To administer oaths, affirmations, examine witnesses and receive evidence;
- (4) To enter upon premises for the purpose of making examinations in a manner that will be limited to all reasonable hours and cause the least possible inconvenience to the persons in possession;
- (5) To appoint and fix, with the advice and consent of the Board of Commissioners, the duties of officers, agents and employees necessary to carry out the purposes of this chapter; and
- (6) To delegate, with the advice and consent of the Board of Commissioners, any of his functions and powers under this chapter to other officers and other agents.

(Code 2015, § 153.40; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-64. Enforcement.

(a) *Dwellings unfit for human habitation; hearing.*

- (1) Whenever a petition is filed with the code enforcement officer by a public authority or by at least five residents of the town

charging that any dwelling is unfit for human habitation, or whenever it appears to the code enforcement officer (on his own motion) that any dwelling is unfit for human habitation, the code enforcement officer shall, if his preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and the parties in interest in the dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the code enforcement officer (or his designated agent) at a place within the municipal limits fixed not less than ten days nor more than 30 days after the serving of the complaint.

- (2) The owner and parties 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.
- (3) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the code enforcement officer.

(b) *Order to repair or vacate dwellings.* If, after notice and hearing, the code enforcement officer determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:

- (1) If the repair, alteration or improvement of the structure can be made at a cost not exceeding 50 percent of the value of the dwelling, as determined by the code enforcement officer, then the owner, within a prescribed period of time, not to exceed 90 days, shall be required to repair, alter or improve the structure in order to render it

fit for human habitation or to vacate and close the structure as a dwelling for human habitation; or

- (2) If the repair, alteration or improvement of the dwelling cannot be made at a cost of 50 percent or less of the value of the dwelling, as determined by the code enforcement officer, then the owner, within a specified period of time, not to exceed 90 days, shall remove or demolish the dwelling. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the town and the historic district commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160A-400.14(a).

(c) *Failure to comply with code enforcement officer's order.*

- (1) If the owner fails to comply with the code enforcement officer's order to repair, alter or improve or to vacate and close the dwelling, the code enforcement officer may cause the dwelling to be repaired, altered or improved or to be vacated and closed; provided, however, that the code enforcement officer shall have caused to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use of or occupation of this building for human habitation is prohibited and unlawful." The duties of the public officer set forth in this provision shall not be exercised until the Board of Commissioners shall have by ordinance ordered the public officer to proceed to effectuate the pur-

pose of this provision with respect to the particular property which the public officer shall have found to be unfit for human habitation and which property shall be described in the ordinance. Said 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.

- (2) Occupation of a building so posted shall constitute a misdemeanor punishable in accordance with the provisions of G.S. 14-4.
- (3) If the owner fails to comply with an order to remove or demolish the dwelling, the code enforcement officer may cause the dwelling to be removed or demolished; provided, however, that, prior to the code enforcement officer proceeding to cause the dwelling to be repaired, altered or improved or to be vacated and closed in accordance with the foregoing, the Board of Commissioners shall have ordered, by ordinance duly adopted, that the code enforcement officer proceed to effectuate the purpose of this chapter with respect to the particular property which the code enforcement officer shall have found to be unfit for human habitation and which property shall be described therein; and provided, further, that no ordinance shall be adopted to require demolition of the dwelling until the owner has first been given a reasonable opportunity to bring it in conformity with the minimum standards provided for hereunder.
- (4) The ordinance shall then be recorded in the office of the county register of deeds and shall be indexed in the name of the property owner in the grantor index.

(d) *Liens; selling of materials of real property.*

- (1) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the code enforcement officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. 143-139.
- (2) If the dwelling is removed or demolished by the code enforcement officer, he shall sell the materials of the dwelling and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the office of the county clerk of superior court by the inspector, shall be secured in a manner directed by the county clerk of superior court, and shall be dispersed by the court to the persons found to be entitled thereto by final order or decree of a court of competent jurisdiction.
- (3) Nothing herein shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

(e) *Vacating a dwelling.*

- (1) If any occupant fails to comply with an order to vacate a dwelling, the code enforcement officer may file a civil action in the name of the town to remove the occupant.
- (2) The action to vacate the dwelling shall be in the nature of summary ejectment and

shall be commenced by filing a complaint naming as parties-defendant any person occupying the dwelling.

(3) Summons and complaint.

- a. The county clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a time, date and place certain not to exceed ten days from the issuance of the summons to answer the complaint.
- b. The summons and complaint shall be served as provided in G.S. 42-29.
- c. The summons shall be returned according to its tenure, and if on its return it appears to have been duly served, and if at the hearing the code enforcement officer produces a certified copy of an ordinance adopted by the Board of Commissioners pursuant to subsection (c) of this section authorizing the code enforcement officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed.

- (4) An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this chapter unless the occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the Board of Commissioners has ordered the code enforcement officer to proceed to exercise his duties to vacate and close or remove and demolish the dwelling.

(Code 2015, § 153.41; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-65. Service of complaints and orders.

(a) Complaints or orders issued by the code enforcement officer pursuant to an ordinance adopted hereunder shall be served upon persons, either personally or by registered or certified mail.

(b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the code enforcement officer in the exercise of reasonable diligence, and the code enforcement officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required hereunder.

(c) When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Code 2015, § 153.42; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-66. Housing appeals board.*(a) General.*

- (1) The housing appeals board referenced herein will consist of and is designated as the board of adjustment.
- (2) The board shall elect its officers, fix the times and places for its meetings, adopt necessary rules of procedure, and adopt other rules and regulations as may be reasonable or necessary for the proper discharge of its duties.
- (3) It shall keep an accurate record of all its proceedings.

*(b) Appeal.**(1) Timeframe; filing of notice.*

- a. An appeal from any decision or order of the code enforcement officer

to the appeals board may be taken by any person aggrieved thereby or by any officer, board or commission of the town. Any appeal from the code enforcement officer shall be taken within ten days from the rendering of the decision or service of the order by filing with the code enforcement officer and with the housing appeals board a notice of appeal which shall specify the grounds upon which the appeal is based.

- b. The filing of a notice of appeal with the town clerk shall constitute filing with the housing appeals board. Upon the filing of any notice of appeal, the code enforcement officer shall forthwith transmit to the housing appeals board all the papers constituting the record upon which the decision appealed from was made.
- c. When an appeal is from a decision of the code enforcement officer refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed.

- (2) *Appeal from decision of code enforcement officer.* When any appeal is from a decision of the code enforcement officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the code enforcement officer certifies to the board, after the notice of appeal is filed with him, that, because of facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of his requirement would cause eminent peril to life or property. In that case, the requirement shall not be suspended except by a restraining

order, which may be granted for due cause shown upon not less than one day's written notice to the code enforcement officer, by the board or by a court of record upon petition made pursuant to this chapter.

(3) *Hearing appeals; decisions.*

- a. The housing appeals board shall fix a reasonable time for hearing appeals, shall give due notice to the parties and shall render its decision within a reasonable time.
- b. Any party may appear in person or by agent or attorney.
- c. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that, in its opinion, ought to be made in the matter, and to that end it shall have all the powers of the code enforcement officer, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the code enforcement officer.
- d. The board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this chapter, to adapt the application of this chapter to the necessities of the case to the end that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.

(c) *Certiorari.*

- (1) Every decision of the appeals 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.

- (2) Any person aggrieved by an order issued by the code enforcement officer or a decision rendered by the board may petition the superior court for an injunction restraining the code enforcement officer from carrying out the order or decision and the court may, upon the petition, issue a temporary injunction restraining the public officer pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision.
- (3) Hearing shall be had by the court on a petition within 20 days, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter the final order or decree as law and justice may require.
- (4) It shall not be necessary to file bond in any amount before obtaining a temporary injunction hereunder.

(Code 2015, § 153.43; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-67. Estimate of annual expenses or costs.

The Board of Commissioners shall, as soon as possible, prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in the town for the purpose of determining the fitness of dwellings for human habitation, and for the enforcement and administration of this chapter and the ordinances adopted pursuant hereto.

(Code 2015, § 153.44; Ord. of 3-28-1988; Ord. of 4-12-1990)

Sec. 38-68. Penalty.

(a) *Violations.* Except as otherwise provided herein, each violation of this chapter shall constitute a misdemeanor and violations of the provisions of this chapter shall be punished by a fine not exceeding \$50.00 or by imprisonment for a term not exceeding 30 days, or both.

(b) Civil penalty.

- (1) Violations of this chapter shall constitute either a misdemeanor or, at the election of the town, shall subject the offender to a civil penalty upon the issuance of a citation for the violation as hereinafter provided.
- (2) The civil penalty, if not paid to the town clerk within 15 days of the issuance of a citation, may be recovered by the town in a civil action in the nature of debt.
- (3) The civil penalties shall be in the amount of \$50.00 for each violation.

(c) Equitable remedy.

- (1) In addition to the penalties set out above, any provision of this chapter may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (2) In such case, the general court of justice shall have jurisdiction to issue 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.

(d) Injunctions.

- (1) In addition to the penalties set out above, any provision of this chapter that makes unlawful a condition existing upon or use made of real property may be enforced by injunction by a general court of justice.

(2) When a violation of a provision occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

(3) 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.

(e) Order of abatement.

(1) In addition to an injunction, the town may seek an order of abatement as a part of the judgment in the cause.

(2) An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this chapter.

(3) If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the town may execute the order of abatement.

(4) The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien.

(5) The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order.

- (6) The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge.
- (7) Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(f) *Remedies.* The provision of this chapter may be enforced by one, all or a combination of the remedies authorized and prescribed by this section.

(g) *Continuing violations.* Each day's continuing violation of any provision of this chapter shall be a separate and distinct offense.

(h) *Warning citation.*

- (1) Upon determination of a violation of any section of this chapter, the penalty for which is a civil penalty, the town shall cause a warning citation to be issued to the violator setting out the nature of the violation, the section violated, the date of the violation, an order to immediately cease the violation, or if the violation is in the nature of an infraction for which an order or abatement would be appropriate in a civil proceeding, a reasonable period of time is stated in which the violation must be abated.
- (2) The warning citation shall specify that a second citation shall incur a civil penalty, together with costs and attorney fees.

(i) *Civil citation.*

- (1) Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the code enforcement officer and either served directly on the violator, his duly designated agent, or 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.

- (2) The violator shall be deemed to have been served upon the mailing of the citation.
- (3) The citation shall direct the violator to appear before the town clerk, located in the town hall, within 15 days of the date of the citation, or alternatively to pay the citation by mail.
- (4) The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise further citations shall be issued.
- (5) Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

(j) *Civil action.* If the violator fails to respond to a citation within 15 days of its issuance, and pay the penalty prescribed therefor, the town may institute a civil action of the nature of debt in the appropriate division of the state general court of justice for the collection of the penalty, costs, attorney fees and other relief as permitted by law. (Code 2015, § 153.99; Ord. of 4-12-1990)

Chapters 39—41

RESERVED

Chapter 42

LAND USAGE

Article I. In General

Secs. 42-1—42-18. Reserved.

Article II. Unified Development Code

Sec. 42-19. Regulations adopted by reference.

Secs. 42-20—42-41. Reserved.

Article III. Energy Dissipation

Sec. 42-42. Regulations adopted by reference.

Secs. 42-43—42-72. Reserved.

Article IV. Culvert Design

Sec. 42-73. Regulations adopted by reference.

Secs. 42-74—42-104. Reserved.

Article V. Open Channel Hydraulics

Sec. 42-105. Regulations adopted by reference.

ARTICLE I. IN GENERAL

Secs. 42-1—42-18. Reserved.

**ARTICLE II. UNIFIED DEVELOPMENT
CODE**

Sec. 42-19. Regulations adopted by reference.

The town's unified development ordinance is hereby adopted by reference and incorporated herein as if set out in full.
(Code 2015, § 154.01)

Secs. 42-20—42-41. Reserved.

ARTICLE III. ENERGY DISSIPATION

Sec. 42-42. Regulations adopted by reference.

The town's energy dissipation regulations are hereby adopted by reference and incorporated herein as if set out in full.
(Code 2015, § 155.01)

Secs. 42-43—42-72. Reserved.

ARTICLE IV. CULVERT DESIGN

Sec. 42-73. Regulations adopted by reference.

The town's culvert design regulations are hereby adopted by reference and incorporated herein as if set out in full.
(Code 2015, § 156.01)

Secs. 42-74—42-104. Reserved.

**ARTICLE V. OPEN CHANNEL
HYDRAULICS**

Sec. 42-105. Regulations adopted by reference.

The town's open channel hydraulics regulations are hereby adopted by reference and incorporated herein as if set out in full.
(Code 2015, § 158.01)

Chapters 43—45

RESERVED

Chapter 46

MISCELLANEOUS OFFENSES

- Sec. 46-1. Begging.
- Sec. 46-2. Youth protection; curfew.
- Sec. 46-3. Consumption, possession of alcohol.
- Sec. 46-4. Firearms, archery, fireworks; carrying concealed weapons on certain property; signs.
- Sec. 46-5. Loud, disturbing and unnecessary noise.
- Sec. 46-6. Dead carcasses.
- Sec. 46-7. Penalty.

Sec. 46-1. Begging.

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

Accosting means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon property in his immediate possession.

Ask, beg and solicit mean and include, without limitation, the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.

Forcing oneself upon the company of another means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(b) It shall be unlawful for any person to solicit money or other things of value:

- (1) On private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;
- (2) Within 15 feet of the entrance to or exit from any public toilet facility;
- (3) Within 15 feet of an automatic teller machine, provided that, when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
- (4) Within 15 feet of any pay telephone, provided that, when a pay telephone is lo-

cated within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;

- (5) In any public transportation vehicle, or in any bus or subway station, or within 15 feet of any bus stop or taxistand;
- (6) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;
- (7) From any persons who are waiting in line for entry to any building, public or private, including, but not limited to, any residence, business or athletic facility; or
- (8) Within 15 feet of the entrance to or exit from a building, public or private, including, but not limited to, any residence, business or athletic facility.

(c) It shall be unlawful for any person to solicit money or other things of value:

- (1) By accosting another; or
- (2) By forcing oneself upon the company of another.

(Prior Code, § 10-103; Code 2015, § 130.01; Ord. of 6-8-2004)

Sec. 46-2. Youth protection; curfew.

(a) *Purpose.* The purpose of this section is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles under the age of 16 years in the town. This section is intended to reinforce and promote the role of the parent in raising and guiding children, and promote the health, safety and welfare of both juveniles and adults by creating an environment offering better protection and security for all concerned.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Direct route means the shortest reasonable path of travel or a commonly used route to reach a final destination without any detour or stop along the way.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or death. The term "emergency" also shall include any action that is reasonably necessary in order to respond to the medical needs of a family member of the juvenile regardless, of whether the juvenile's action is taken in order to prevent death or serious bodily injury.

Establishment means any privately owned place of business operated for profit to which the public has access or is invited, including, but not limited to, any place of amusement or entertainment.

Guardian means a person who is court-appointed to be the guardian of the juvenile.

Juvenile means any person who is under the age of 16 years.

Owner/operator means any individual, firm, association, partnership or corporation, operating, managing or conducting any establishment, including the employees, members or partners of an association or partnership and the officers of a corporation.

Parent means a person who is a natural parent, adoptive parent, foster parent or a stepparent of another person, or a person to whom legal custody has been given by court order.

Public place means any place that is generally open to and used by the public or privately-owned, including, but not limited to, streets, sidewalks, highways, alleys, rights-of-way, public vehicular areas and parking lots, transportation facilities, theaters, restaurants, shops, bowling alleys, schools and school grounds, places of business and amusement playgrounds, parks, similar areas that are open to the public and other common areas open to or accessible to the public.

Remain means to linger or stay in a public place, or to fail to leave the premises when requested to do so by a police officer, or to fail to leave the premises of an establishment when requested to do so by the owner/operator or employee of the premises.

Restricted hours. The time of night referred to herein is based upon the prevailing standard of time, whether eastern standard time or daylight savings time, generally observed at that hour by the public in the town. The term "restricted hours" means:

- (1) 11:00 p.m. on Sunday, Monday Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

(c) *Offenses.* Except as provided by subsection (d) of this section, the following offenses constitute a violation of this section:

- (1) A juvenile commits an offense by being present in or remaining in any public place or on the premises of any establishment within the town during the restricted hours.
- (2) A parent or guardian of a juvenile commits an offense if he knowingly permits, or by insufficient control allows, the juvenile to remain in any public place or on the premises of any establishment within the town during the restricted hours. The term

"knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of the juvenile.

- (3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a juvenile to remain upon the premises of the establishment during the restricted hours. The term "knowingly" includes knowledge that an operator or employer should reasonably be expected to have concerning the patrons of an establishment. The standard for the term "knowingly" shall be applied through an objective test: whether a reasonable person in the operator's or employee's position should have known that the patron was a juvenile in violation of this section.
- (4) It shall be a violation of this section for any person 16 years of age or older to aid or abet a juvenile in the violation of subsection (c)(1) of this section.
- (5) It shall be a violation of this section for a parent or guardian to refuse to take custody during the restricted hours of a juvenile for whom the parent or guardian is responsible.
 - (d) *Exceptions.* A juvenile who is in a public place or establishment during the restricted hours shall not be in violation of this section if the juvenile is:
 - (1) Accompanied by his parent or guardian;
 - (2) Accompanied by an adult 18 years of age or older authorized by the parent or guardian of the juvenile to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within a specified area;
 - (3) On an errand, using a direct route, at the direction of the juvenile's parent or guardian until the hour of 12:30 a.m.;
 - (4) In a motor vehicle with parental consent engaged in interstate travel through the town or originating or terminating in the town;
 - (5) Traveling in a motor vehicle with a parent or guardian, or traveling in a motor vehicle with an adult 18 years of age or older authorized by the parent or guardian of the juvenile to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within a specified area;
 - (6) Engaged in a lawful employment activity or using a direct route to or from a place of employment;
 - (7) Reacting or responding to an emergency;
 - (8) Attending or traveling to or from, by direct route, an official school, religious or recreational activity that is supervised by adults and sponsored by a public or private school, the town or other governmental entity, a civic organization or another similar entity that accepts responsibility for the juvenile;
 - (9) Exercising the First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly;
 - (10) Married or emancipated;
 - (11) When authorized by special permit from the chief of police or his designee carried on the person of the juvenile thus authorized, as follows. When necessary night-

time activities of a juvenile may be inadequately provided for by other provisions of this section, then recourse may be had to the chief of police or his designee, either for a regulation as provided in subsection (d)(12) of this section or for a special permit as the circumstances warrant. Upon the findings of reasonable necessity for the use of a public place to the extent warranted by written application signed by a juvenile, and by a parent of the juvenile, if feasible, stating the following, the chief of police or his designee may grant a permit in writing for the juvenile's use of a public place at hours as, in the opinion of the chief of police, may reasonably be necessary and consistent with the purpose of this section:

- a. The name, age and address of the juvenile;
- b. The name, address and the telephone number of a parent thereof;
- c. The height, weight, sex, color of eyes and hair and other physical characteristics of the juvenile;
- d. The necessity that requires the juvenile to remain upon a public place during restricted hours otherwise applicable;
- e. The public place; and
- f. The beginning and ending of the period of time involved by date and hours; and/or

(12) When authorized, by regulation issued by chief of police or his designee in other similar cases of reasonable necessity, similarly handled as set forth in subsection (d)(11) of this section, but adapted to reasonably necessary nighttime activities of more juveniles than can readily be dealt with on an individual special permit basis.

Normally, the regulation by the chief of police or his designee permitting use of a public place should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the schools, and shall define the activity, the scope of the use of the public places permitted, the period of time involved, not to extend more than one hour beyond the time for termination of the activity, and the reason for finding that the regulation is reasonably necessary and is consistent with the purpose of this section.

(e) *Defense.* It is a defense to prosecution under subsection (c)(3) of this section that the owner, operator or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during the restricted hours and refused to leave.

(f) *Enforcement.* Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment during restricted hours.
(Prior Code, § 47-100; Code 2015, § 130.02; Ord. of 11-10-1997)

Sec. 46-3. Consumption, possession of alcohol.

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

Malt beverage means beer, lager, malt liquor, ale, porter and any other brewed or fermented beverage containing at least one-half percent, and not more than six percent, alcohol by volume.

Open container means a container whose seal has been broken or a container other than the manufacturer's unopened original container.

Public street means any highway, road, street, avenue, boulevard, alley, bridge or other way within and/or under the control of the town and open to public use, including sidewalks of any street.

Unfortified wine means any wine of 16 percent or less alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

(b) *Consumption on the public streets and on municipal property prohibited.* It shall be unlawful for any person who is not an occupant of a motor vehicle to consume malt beverages and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to consume malt beverages and/or unfortified wine on any property, where located inside or outside the corporate limits, owned, occupied, or controlled by the town, including, but not limited to, public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts and other athletic fields.

(c) *Possession of open containers on the public streets and on municipal property prohibited.* It shall be unlawful for any person who is not an occupant of a motor vehicle to possess any open container of malt beverage and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to possess any open container of malt beverage and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied or controlled by the town, including, but not limited to, public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts and other athletic fields.

(d) *Exemptions, possession during special events.* Possession and consumption of malt beverages and/or unfortified wine may be allowed during special events on any property owned, occupied or controlled by the town. The sale or distribution of any malt beverage and/or unfortified wine shall be in compliance with all ABC permits and regulations. If public streets, alleys or parking lots are used, they must be temporarily closed to regular traffic. This exemption shall not apply unless the Board of Commissioners expressly approves this exemption while approving the special event.

(e) *Sunday sales.* Persons selling alcoholic beverages in the town shall comply with the provisions of section 6-24.

(Prior Code, § 44-100; Code 2015, § 130.03; Ord. of 11-13-1995; Ord. of 7-27-2010; Ord. No. 2017005, § 1, 8-22-2017)

State law reference—Sale and consumption on streets and public land, G.S. 18B-300.

Sec. 46-4. Firearms, archery, fireworks; carrying concealed weapons on certain property; signs.

(a) *Firearms, fireworks prohibited.* No person shall fire any kind of firearm or any description of fireworks within the corporate limits of the town without the consent of the Board of Commissioners.

(b) *Signs.*

(1) *Posting of signs required.* The police chief or designee is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to the buildings, indicating that carrying a concealed handgun is prohibited therein.

(2) *Location of signs.* Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The police chief or designee shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

(c) *Archery.* No person shall hunt by bow and arrow except:

- (1) During a lawful hunting season validly in effect, including any urban archery season approved by the Board of Commissioners;
- (2) The parcel or tract of land must be equal to or greater than two acres in area (such area may be comprised of contiguous parcels);
- (3) The hunter must own or have written permission with him from the owner to hunt upon the land;
- (4) No arrow shall be discharged within 150 feet of any residential dwelling, school, church, or any other occupied building, street, road, public recreation or gathering area; and
- (5) The hunter exercises reasonable regard for the safety and property of other persons and adheres to all applicable state and local regulations.

(d) *Self-defense, official duties of officers exempted.* Nothing contained herein shall be construed as to prohibit any person from discharging any firearm in the lawful self-defense or any sworn law enforcement officer in the performance of official duties.

(Prior Code, §§ 1-100, 34-100; Code 2015, § 130.04; Ord. of 11-13-1995; Ord. of 9-29-2014)

Sec. 46-5. Loud, disturbing and unnecessary noise.

(a) *Unlawful acts.* It shall be unlawful for any person to create or assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing and excessive noise in the town. The following acts, among others, are declared to be unreasonably loud, disturbing and excessive noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

- (1) The sounding of any horn or signal device or any noise-making device on any automobile, motorcycle, bus or other vehicle, except as a danger signal or as required by law, so as to create any unreasonable, loud or harsh sound, or sounding of the device for any unnecessary and unreasonable period of time;
- (2) The use of any siren upon any vehicle, other than police, fire or other emergency vehicle;
- (3) The keeping of any animal which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity of a residential district between the hours of 6:00 p.m. and 7:00 a.m. (this provision supplements section 10-5 pertaining to dogs and cats);
- (4) The use of any automobile, motorcycle, boat or other vehicle so out of repair, so loaded or in such manner as to create loud or excessive grating, grinding, rattling, or other noise;
- (5) The discharge into the open air 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 loud or explosive noises therefrom;

- (6) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;
- (7) The erection (including excavation), demolition, alteration, or repair of any building in a residential or business district except for between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday and 12:00 noon and 7:00 p.m. on Sunday and does not permit said activities anytime on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day, except in the case of urgent necessity in the interest of public safety and then only with a permit from the town manager or designee, which permit may be renewed for a period of three days or less while the emergency continues;
- (8) The shouting and crying of peddlers, barkers, hawkers, and vendors which disturbs the quiet and peace of the neighborhood; or anyone shouting within the corporate limits so as to disturb the peace and quiet of the neighborhood;
- (9) The use or operation of mechanical yard equipment, including, but not limited to, chainsaws, chippers, edgers, tillers, lawn mowers, weed eaters, leaf blowers, or hedge trimmers, except between the hours of 7:00 a.m. and 7:00 p.m. (9:00 p.m. during daylight savings time);
- (10) The use or operation of any radio, loudspeaker, or any other instrument, or sound amplifying devices unreasonably loud and excessive as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance.
- a. Playing or permitting to be played any device described in subsection (a)(10) of this section so loudly as to create sound registering 55 decibels or more between the hours of 11:00 p.m. and 7:00 a.m. measured from the exterior of any lawfully occupied residential structure shall be prima facie evidence of a violation of this section.
- b. Playing or permitting to be played any device described in subsection (a)(10) of this section so loudly as to create sound registering 65 decibels or more between the hours of 7:00 a.m. and 11:00 p.m. measured from the exterior of any lawfully occupied residential structure shall be prima facie evidence of a violation of this section.
- (b) *Factors.* In determining whether a violation of this section has occurred, the following characteristics and conditions may be considered:
- (1) The volume and intensity;
 - (2) The duration;
 - (3) The time of the day or night;
 - (4) The general characteristics of the area where the noise occurs; and
 - (5) The nature of the noise, whether usual or unusual and produced naturally or unnaturally.
- (c) *Exemptions.* The provisions set forth in this section shall not apply to sound generated which is a part of:
- (1) A permitted event;
 - (2) Emergency, military or law enforcement operations; or

- (3) Reasonable recreational, cultural or leisure activities conducted on public property such as athletic events or town-sponsored special events.

(Prior Code, § 12-100; Code 2015, § 130.05; Ord. of 11-10-1998; Ord. of 12-9-2014; Ord. No. 2016016, 9-27-2016; Ord. No. 2018007, § 130.05(10), 3-27-2018)

Sec. 46-6. Dead carcasses.

No person shall knowingly allow a dead carcass or any portion thereof to remain upon his premises within the incorporated limits of the town longer than 24 hours after death.

(Prior Code, § 3-103; Code 2015, § 130.07)

Sec. 46-7. Penalty.

In addition to the other penalties specified in section 1-14, violations of section 46-5 shall subject the offender to the following civil penalties:

First citation:	\$ 50.00
Second citation for same offense within any 12-month period:	250.00
Third and subsequent citations for same offense within any 12-month period:	500.00

If the offender fails to pay the civil penalty within ten days after receipt of the citation, the civil penalty may be recovered by the town in a civil action in the nature of a debt. Each occurrence of a noise violation that continues after or occurs separately and anew after issuance of a citation shall be considered a separate offense for purposes of the above civil penalties regardless of whether on the same day or on subsequent days. The other penalties in section 1-14 referenced above include enforcement by injunctions and the right to summarily abate.

(Prior Code, §§ 1-100, 2-100, 3-103, 3-104, 10-103, 12-100, 44-100, 47-100; Code 2015, § 130.99; Ord. of 11-13-1995; Ord. of 11-10-1997; Ord. of 6-8-2004; Ord. of 12-9-2014)

Chapters 47—49

RESERVED

Chapter 50

NUISANCES*

- Sec. 50-1. Definitions.
- Sec. 50-2. Administration.
- Sec. 50-3. Abandoned vehicle unlawful; removal authorized.
- Sec. 50-4. Nuisance vehicle unlawful; removal authorized.
- Sec. 50-5. Junked motor vehicle regulated; removal authorized.
- Sec. 50-6. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements.
- Sec. 50-7. Exceptions to prior notice requirement.
- Sec. 50-8. Removal of vehicles; post-towing notice requirements.
- Sec. 50-9. Right to probable cause hearing before sale or final disposition of vehicle.
- Sec. 50-10. Redemption of vehicle during proceedings.
- Sec. 50-11. Sale and disposition of unclaimed vehicles.
- Sec. 50-12. Conditions on removal of vehicles from private property.
- Sec. 50-13. Protection against criminal or civil liability.
- Sec. 50-14. Exceptions.
- Sec. 50-15. Unlawful removal of impounded vehicle.
- Sec. 50-16. Removal fees and charges.
- Sec. 50-17. Changes in law.

*State law reference—Junked and abandoned motor vehicles, G.S. 160A-303.

Sec. 50-1. Definitions.

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

Abandoned vehicle, as authorized and defined in G.S. 160A-303, means 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 or is determined by law enforcement to be a hazard to the motoring public;
- (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 town police officer or the code enforcement officer, respectively, are designated to authorize the removal of vehicles under the provisions of this chapter.

Junked motor vehicle, as authorized and defined in G.S. 160A-303, means a vehicle that also:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move;
- (3) Is more than five years old and appears to be worth less than \$500.00; or
- (4) Does not display a current license plate.

Motor vehicle or *vehicle* means all machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Nuisance vehicle means 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; and/or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Commissioners.

(Prior Code, § 15-100; Code 2015, § 95.02; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-2. Administration.

The police officers and the duly appointed code enforcement officer of the town shall be responsible for the administration and enforcement of this chapter. The police officers shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the pub-

lic streets and highways within the town, and on property owned by the town. The code enforcement officer 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 other town officials in enforcing other laws or in otherwise carrying out their duties.

(Prior Code, § 15-100; Code 2015, § 95.01; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-3. Abandoned vehicle unlawful; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow the vehicle to be abandoned as that 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.

(Prior Code, § 15-100; Code 2015, § 95.03; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-4. 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 it has been declared a nuisance vehicle.

(b) Upon investigation, the code enforcement officer may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, as defined in section 50-1, and order the vehicle removed.

(Prior Code, § 15-100; Code 2015, § 95.04; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-5. Junked motor vehicle regulated; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to 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) Number of junked motor vehicles on property; concealment.

- (1) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property.
- (2) Single, permitted junked motor vehicles must strictly comply with the location and concealment requirements of this section.

(c) Subject to the provisions of subsection (d) of this section, upon investigation, the code enforcement officer 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. The finding 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. The following, among other relevant factors, may be considered:

- (1) Protection of property values;

- (2) Promotion of economic development opportunities;
 - (3) Indirect protection of public health and safety;
 - (4) Preservation of the character and integrity of the community; and
 - (5) Promotion of the comfort, happiness and emotional stability of area residents.
- (d) Permitted concealment or enclosure of junked motor vehicle.
- (1) 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 code enforcement officer 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 the ordinance from which this chapter is derived.
 - (2) More than one junked motor vehicle. Any other junked motor vehicle must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle cannot be seen from a public street or abutting property. A garage or building structure means either a lawful, nonconforming 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.

(Prior Code, § 15-100; Code 2015, § 95.05; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-6. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements.

(a) Notice.

- (1) Except as set forth in section 50-7, an abandoned, nuisance or junked motor 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.
- (2) The person who mails the notice shall retain a written record to show the name and address to which it was mailed, and the date mailed. If the 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 town 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, the appeal shall be made to the Board of Commissioners, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(Prior Code, § 15-100; Code 2015, § 95.06; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-7. Exceptions to prior notice requirement.

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. The findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

- (1) *Vehicles abandoned on the streets.* For vehicles left on the public streets and highways, the Board of Commissioners hereby determines that immediate removal of the 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 this Code.

- (2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on town-owned property other than the streets and highways, and on private property, the 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, the circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(Prior Code, § 15-100; Code 2015, § 95.07; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-8. 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 the services for the town. Whenever a vehicle is removed, the authorizing town official shall immediately notify the last-known registered owner of the vehicle, the notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(b) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (a)(1) through (5) of this section, 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 agent.

(c) 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.

(d) Whenever an abandoned, nuisance or junked motor vehicle is removed, and the vehicle has no valid registration or registration plates, the authorizing 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 of the information set forth in subsections (a)(1) through (5) of this section.

(e) Notwithstanding any provision to the contrary, in accordance with G.S. 160A-303.2, no person shall remove or dispose of any motor vehicle that is used on a regular basis for business or personal use.
(Prior Code, § 15-100; Code 2015, § 95.08; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-9. 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 magistrate designated by the chief district court judge to receive the 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, as amended.

(Prior Code, § 15-100; Code 2015, § 95.09; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-10. 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 the 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.

(Prior Code, § 15-100; Code 2015, § 95.10; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-11. Sale and disposition of unclaimed vehicles.

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 tow truck operator or towing business having custody of the vehicle. Disposition of a vehicle shall be carried out in coordination with the town and in accordance with G.S. ch. 44A, art. 1.

(Prior Code, § 15-100; Code 2015, § 95.11; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-12. Conditions on removal of vehicles from private property.

(a) As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of the property could have the vehicle removed under applicable state law procedures.

(b) 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 code enforcement officer.

(c) 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.

(Prior Code, § 15-100; Code 2015, § 95.12; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-13. 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 the vehicle as provided in this chapter.

(Prior Code, § 15-100; Code 2015, § 95.13; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-14. Exceptions.

Nothing in this chapter shall apply to any vehicle:

- (1) Which is located 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.;
- (2) Which is in an enclosed building;
- (3) 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

- (4) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the town.

(Prior Code, § 15-100; Code 2015, § 95.14; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-15. 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 which are due, or bond in lieu of the fees, have been paid.

(Prior Code, § 15-100; Code 2015, § 95.15; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-16. Removal fees and charges.

The tow service or towing contractor shall be solely responsible for collecting any fees charged by the towing contractor under any contract with the town for the towing, removal, storage and/or disposal of a motor vehicle pursuant to this chapter, except the fees must be approved by the Board of Commissioners and fees in excess of those approved by the Board of Commissioners may not be collected under any towing contract with the town.

(Prior Code, § 15-100; Code 2015, § 95.16; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Sec. 50-17. Changes in law.

Should G.S. 160A-193, 160A-303, 160A-303.2 or any other section of the general statutes incorporated by reference or otherwise referred to in this chapter be changed or amended or should the statutes require or mandate a different procedure or change or impose new, different or additional

requirements, this chapter shall be deemed to have been amended without further action to have complied with the new, additional or amended requirements.

(Prior Code, § 15-100; Code 2015, § 95.17; Ord. of 1-27-1975; Ord. of 10-10-1994; Ord. of 1-13-1997)

Chapters 51—53

RESERVED

Chapter 54

PARKS AND RECREATION

Article I. In General

Sec. 54-1. Barnes Park/Waxhaw Sk8 Park regulations.
Secs. 54-2—54-20. Reserved.

Article II. Vendors in Parks

Sec. 54-21. Definitions.
Sec. 54-22. Purpose.
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ARTICLE I. IN GENERAL**Sec. 54-1. Barnes Park/Waxhaw Sk8 Park regulations.**

- (a) Hours of operation.
- (1) The David G. Barnes Park/Waxhaw Sk8 Park will be open only from 8:00 a.m. until dusk.
- (2) It shall be unlawful for any person to be at the David G. Barnes Park/Waxhaw Sk8 Park when either park is closed.
- (b) Users of the David G. Barnes Park/Waxhaw Sk8 Park do so at their own risk and assume the risk of any injury arising from or related thereto.
- (c) Unlawful to ride bicycles, scooters, etc.
- (1) It shall be unlawful for any person to ride a bicycle, scooter, mechanical (gas/battery) powered machine, skateboard or skates at the skateboard facility (Waxhaw Sk8 Park) of the David G. Barnes Park unless that person is wearing a helmet, elbow pads and kneepads.
- (2) It shall be unlawful for any person to ride a skateboard or skates at any area in the David G. Barnes Park other than the designated skateboard facility (Waxhaw Sk8 Park).
- (3) It shall be unlawful for any person to ride a bicycle at any area in the David G. Barnes Park/Waxhaw Sk8 Park except during town-approved events allowing freestyle biking in the Waxhaw Sk8 Park. Freestyle bikes must have 4½-inch pegs and otherwise be designed for freestyle biking.
- (d) It shall be unlawful for any person at the David G. Barnes Park/Waxhaw Sk8 Park to:
- (1) Use profanity;
- (2) Have food or beverages on any concrete surface area of the designated skateboard facility;
- (3) Have alcohol, tobacco products or any illegal drugs; or
- (4) Litter.
- (e) It shall be unlawful for any person to ride a skateboard or skates at the skateboard facility (Waxhaw Sk8 Park) of the David G. Barnes Park when the concrete is wet or icy.
- (f) It shall be unlawful for any person at the David G. Barnes Park/Waxhaw Sk8 Park to vandalize, paint, mark, damage or graffiti any part of the Barnes Park.
- (g) It shall be unlawful for any person at the skateboard facility (Waxhaw Sk8 Park) of the David G. Barnes Park to wax, oil or grease any area or structure of the Waxhaw Sk8 Park. (Prior Code, § 10-104; Code 2015, § 93.01; Ord. of 10-10-2006; Ord. of 9-13-2007; Ord. of 9-9-2008; Ord. of 4-14-2015)

Secs. 54-2—54-20. Reserved.

ARTICLE II. VENDORS IN PARKS**Sec. 54-21. Definitions.**

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

Itinerant merchant means a merchant, other than a merchant with an established retail store in the town, who transports an inventory of goods to a building, vacant lot or other location in the town and who, at that location, displays the goods for sale and sells the goods or offers the goods for sale.

Permit means the town park vendors permit issued by the director of parks and recreation pursuant to G.S. 160A-194 and 160A-174.

Recreational goods means goods other than food directly related to the public use of the town park.

Stand means a nonmotorized, but mobile, pushcart which may be moved without the assistance of a motor and which may or may not be required to be licensed and registered by the state department of motor vehicles, or a pedal-powered cart, used for the displaying, storage or transporting of articles offered for sale or rental by a vendor and any stand shall be constructed in accordance with the size, quality, design and all other written regulations.

Town park means the designated areas of the town, which have been established as town parks and any improvements located thereon.

Vendor means a person receiving a town park food vendors regulatory permit under this article and described in this article for the town park area.

(Prior Code, § 41-100; Code 2015, § 93.17; Ord. of 5-14-2001; Ord. of 4-10-2007)

Sec. 54-22. Purpose.

(a) It is the purpose of these regulations to promote the general welfare and appearance of the town by setting standards for the operation and licenses of all vendors and trailers in the town parks.

(b) It is declared that the regulation of vending vehicles within the town is necessary and in the public interest to:

- (1) Promote the utilization of the town parks by encouraging an environment which is attractive and safe for its users; and

- (2) Provide for the safety of pedestrian and vehicular traffic by setting guidelines on the placement of the vendors to prevent traffic congestions.

(Prior Code, § 41-100; Code 2015, § 93.15; Ord. of 5-14-2001)

Sec. 54-23. Application of regulations.

The provisions of these regulations shall apply to the operation, location, size, insurance and design of all vending pushcarts and trailers in the town parks operated after the effective date of the ordinance from which this article is derived.

(Prior Code, § 41-100; Code 2015, § 93.16; Ord. of 5-14-2001; Ord. of 4-10-2007)

Sec. 54-24. Administration.

- (a) Application review; permit issuing.

(1) The director of parks and recreation will review all applications for compliance with all the regulations set forth herein. Design standards set forth in the guidelines will be reviewed by the director of parks and recreation.

(2) The director of parks and recreation will then issue the permit accordingly.

(b) The review regulations may include, but not be limited to, design, size, kinds of materials, color, health, safety, aesthetics, merchandise, method of distributions and disposal of food and merchandise, all of which ensure safe, healthy and attractive town park vendor environment.

(c) The Board of Commissioners shall have the authority to amend, delete or add to these regulations with reference to the standards and purposes stated in this article and the initially approved regulations. The director of parks and recreation shall make recommendations to the commission regarding any proposed changes.

(Prior Code, § 41-100; Code 2015, § 93.18; Ord. of 5-14-2001; Ord. of 4-10-2007)

Sec. 54-25. Number and location of vendors.

(a) Vendor locations will be picked from the predetermined spaces available at the time of application. Locations are to remain the same throughout the duration of the permit. If relocation is desired, a request must be made in writing to the director of parks and recreation's office.

(b) The assignment of vendor locations will be on a first-come, first-serve basis. Additional locations will be created when there is a need for them and will be approved by the Board of Commissioners.

(c) There shall be no more than one vendor per town park authorized to sell food and one vendor per town park authorized to sell or rent recreational goods unless expressly authorized by the Board of Commissioners.

(Prior Code, § 41-100; Code 2015, § 93.19; Ord. of 5-14-2001; Ord. of 4-10-2007)

Sec. 54-26. Regulatory permit required.

(a) It shall be unlawful for any vendor to rent or offer to rent or sell or to offer for sale recreational goods, any food or beverage within the town parks unless there is compliance with the provisions of this article and the review regulations and unless a permit has been obtained.

(b) Otherwise, it shall be unlawful for a person to sell or offer to sell anything within the town parks.

(c) This article shall not apply to news vending machines, festivals or other special events sponsored by the town.

(Prior Code, § 41-100; Code 2015, § 93.20; Ord. of 5-14-2001; Ord. of 4-10-2007)

Sec. 54-27. Application for permits.

Vendors shall apply for a permit on a form provided by the parks and recreation director.

(Prior Code, § 41-100; Code 2015, § 93.21; Ord. of 5-14-2001; Ord. of 4-10-2007)

Sec. 54-28. Permit issuance.

No later than 30 days after filing of the completed application for a permit, the applicant shall be notified by the director of parks and recreation's office of the decision on the issuance or denial of the permit. If the permit is denied, the applicant shall be provided by the department with a written statement of reasons for the denial on the application. A permit issued to a person is not transferable in any way and the recipient of the permit remains responsible for compliance with this article.

(Prior Code, § 41-100; Code 2015, § 93.22; Ord. of 5-14-2001; Ord. of 4-10-2007)

Sec. 54-29. Prohibited conduct.

The following shall constitute unlawful conduct. It shall be unlawful to:

- (1) Violate any federal, state, county or town law or regulation that pertains to food, beverages or the selling thereof or that pertains to the operation of the vendor's business in the town parks;
- (2) Fail to permit any lawfully requested inspection by the health officials or to comply with any lawful request of a police officer;
- (3) Fail to carry and display at all times the permit issues under this article;
- (4) Have a stand that is not in compliance with the regulations or any additional special restrictions or conditions stated in the permit;
- (5) Vend without the insurance required by this article;
- (6) Vend in any area other than that space which was approved by the director of parks and recreation's office;
- (7) Leave any stand overnight within the town parks;

- (8) Sell food or beverage for immediate consumption, unless the vendor has available for public use the vendor's litter receptacle or a public litter receptacle no more than ten feet distant from the person's stand;
 - (9) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor;
 - (10) Allow any item relating to the operation of the vending business to be placed anywhere other than in, on or under the stand, or offer to sell any goods other than those permitted by the vendor's permit;
 - (11) Use any device that produces any loud noise or engage in hawking or harassment for the purpose of attracting the attention of the public to the stand for commercial purposes;
 - (12) Have any lights that flash, used solely for the purpose of attracting the attention of the public to the stand for commercial purposes;
 - (13) Use any kind of advertising on the stand other than the name of the business, posting of prices, names of the products and the name of the vendor;
 - (14) Use any kind of detached advertising;
 - (15) Distribute items in glass containers; and
 - (16) Damage grass or other public property.
- (Prior Code, § 41-100; Code 2015, § 93.24; Ord. of 5-14-2001; Ord. of 4-10-2007)

Sec. 54-30. Denial, suspension and revocation of permit.

(a) The director of parks and recreation's office shall have the authority to deny, suspend or revoke a permit for any of the following cases:

- (1) Fraud or misrepresentation contained in the application for the permit or, in apply-

ing for the permit, failure to provide the information required by this article, by the director of parks and recreation, or to provide any relevant information sought by the staff;

- (2) Fraud or misrepresentation made in the course of carrying on the business of vending or failure to pay required sales tax;
- (3) A violation of a provision of this article or the review application;
- (4) Conviction of the permittee for any felony or for a misdemeanor related to the vendor's business authorized by the permit; and
- (5) The vendor's use of the permit may adversely affect the public health, safety or welfare.

(b) The department shall have the authority to suspend or revoke a permit for any of the reasons stated in this section.

(c) If a permit is suspended or revoked, then the permittee shall have the right to appeal the revocation or the suspension to the Board of Commissioners or its designee in writing within ten days of the suspension or revocation. The decision of the Board or its designee shall be final.

(d) If a vendor with a permit is convicted of a criminal misdemeanor for a violation of this article or has a permit revoked, then the director of parks and recreation's office may reject any application for any kind of permit under this article for a 12-month period from the date of the conviction or revocation.

(Prior Code, § 41-100; Code 2015, § 93.25; Ord. of 5-14-2001; Ord. of 4-10-2007)

Sec. 54-31. Permit fee.

There shall be a permit fee associated with every vending permit that is to be paid yearly; the vendor fee is contained on the town schedule of fees.

(Prior Code, § 41-100; Code 2015, § 93.26; Ord. of 5-14-2001)

Sec. 54-32. Penalty.

(a) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to section 1-14.

(b) Any person violating section 54-1 may be precluded from using the David G. Barnes Park.
(Prior Code, § 10-104; Code 2015, § 93.99; Ord. of 10-10-2006; Ord. of 9-13-2007; Ord. of 9-9-2008)

Chapters 55—57

RESERVED

Chapter 58

STORMWATER AND EROSION CONTROL

Article I. In General

Secs. 58-1—58-18. Reserved.

Article II. Stormwater Drainage Systems

Sec. 58-19. Regulations adopted by reference.

Secs. 58-20—58-41. Reserved.

Article III. Erosion and Sedimentation Control

Sec. 58-42. Definitions.

Sec. 58-43. Preamble.

Sec. 58-44. Purpose.

Sec. 58-45. Jurisdiction.

Sec. 58-46. Exclusions.

Sec. 58-47. General requirements and objectives.

Sec. 58-48. Mandatory standards for land disturbing activities.

Sec. 58-49. Design and performance standards.

Sec. 58-50. Stormwater outlet protection.

Sec. 58-51. Borrow and waste areas.

Sec. 58-52. Access and haul roads.

Sec. 58-53. Operations in lakes or natural watercourses.

Sec. 58-54. Responsibility for maintenance.

Sec. 58-55. Additional measures.

Sec. 58-56. Existing uncovered areas.

Sec. 58-57. Permits.

Sec. 58-58. Erosion and sedimentation control plans.

Sec. 58-59. Transfer of plans.

Sec. 58-60. Inspections and investigations.

Sec. 58-61. Penalties; stop work orders.

Sec. 58-62. Injunctive relief.

Sec. 58-63. Restoration of areas affected by failure to comply.

Sec. 58-64. Appeals.

ARTICLE I. IN GENERAL

Secs. 58-1—58-18. Reserved.

ARTICLE II. STORMWATER DRAINAGE SYSTEMS

Sec. 58-19. Regulations adopted by reference.

The town's stormwater drainage regulations are hereby adopted by reference and incorporated herein as if set out in full.
(Code 2015, § 157.01)

Secs. 58-20—58-41. Reserved.

ARTICLE III. EROSION AND SEDIMENTATION CONTROL

Sec. 58-42. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. These definitions are derived from the state sedimentation control regulations, 15A NCAC 4A.0105, and the Sedimentation Pollution Control Act of 1973, G.S. 113A-52.

Accelerated erosion means any increase over the rate of natural erosion as a result of land disturbing activity.

Act means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it, as amended from time to time.

Adequate erosion control measure, structure, or device means one which controls the soil material within the land area under responsible control of the person conducting the land disturbing activity, as such controls are specified in the article.

Affiliate means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control of another person.

Being conducted means a land disturbing activity has been initiated and permanent stabilization of the site has not been completed.

Board of Commissioners means the town Board of Commissioners.

Borrow means fill material which is required for on-site construction and is obtained from other locations.

Buffer zone means the strip of land adjacent to a lake or natural watercourse.

Commission/NCSCC means the North Carolina Sedimentation Control Commission.

Completion of construction or development means that no further land disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Department means the state department of environmental quality.

Development services department means the town development services department.

Discharge point means that point at which runoff leaves a tract.

District/SWCD means the Union Soil and Water Conservation District created pursuant to G.S. ch. 139.

Energy dissipater means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Erosion means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

Ground cover means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

Lake or natural watercourse means any stream, river, brook, swamp, creek, run, branch, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

Land disturbing activity means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highways and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Local government means any county, village, town, or city, or any combination of counties, villages, towns and cities acting through a joint program with the town pursuant to the provisions of the Act.

Natural erosion means the wearing away of the earth's surface by water, wind or other natural agents under natural environmental conditions undisturbed by man.

Parent means an affiliate that directly or indirectly, through one or more intermediaries, controls another person.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person conducting land disturbing activity means any person who may be held responsible for a violation unless expressly provided otherwise by this article, the Act, or any order adopted pursuant to this article or the Act.

Person responsible for the violation, as used in this article and G.S. 113A-64, means:

- (1) The developer or other person who has or holds themselves out as having financial or operational control over the land disturbing activity; and/or
- (2) The landowner or person in possession or control of the land who has directly or indirectly allowed the land disturbing activity or has benefited from it or has failed to comply with any provision of this article, the Act, or any order adopted pursuant to this article or the Act.

Phase of grading means one of two types of grading, rough or fine.

Plan means a complete erosion and sedimentation control plan.

Sediment means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land disturbing activity or into a lake or natural watercourse.

Siltation means sediment resulting from accelerated erosion which is removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land disturbing activity; and which has been deposited in or is in suspension in water.

Storm drainage facilities means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater runoff means the direct runoff of water resulting from precipitation in any form.

Subsidiary means an affiliate that is directly or indirectly, through one or more intermediaries, controlled by another person.

SWCD/Union SWCD means the Union Soil and Water Conservation District.

Ten-year storm means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

Town means Town of Waxhaw.

Town erosion control specialist, erosion control specialist or specialist includes the development services director, who is principally responsible for the administration of this article, or his duly authorized designee. The term "town erosion control specialist/erosion control specialist/specialist" shall also include any persons, agents or other representatives of the town as authorized by the development services director.

Tract means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Twenty-five-year storm means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

Two-year storm means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in two years, and of a duration which will produce the

maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

Uncover means the removal of ground cover from, on, or above the soil surface.

Undertaken means the initiating of an activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract.

Velocity means the average speed of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Waste means surplus materials resulting from on-site construction and disposed of at locations either on- or off-site other than the initial source of the materials.

Watershed means the region drained by or contributing water to a stream, lake or other body of water.

Working days means days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land disturbing activity to be undertaken.

(Code 2015, § 159.03; Ord. No. 2016017, 10-25-2016)

Sec. 58-43. Preamble.

The sedimentation of streams, lakes and other waters of the state constitute a major pollution problem. Sedimentation occurs from the erosion or depositing of soil and other materials into the waters, principally from construction sites and road maintenance. The continued development of the town will result in an intensification of pollu-

tion through sedimentation unless timely and appropriate action is taken. Control of erosion and sedimentation is deemed vital to the public interest and necessary to the public health and welfare, and expenditures of funds for erosion and sedimentation control programs shall be deemed for a public purpose. It is the purpose of this article to provide for the creation, administration, and enforcement of a program and for the adoption of minimal mandatory standards which will permit development of the town to continue with the least detrimental effects from pollution by sedimentation.

(Code 2015, ch. 159, preamble; Ord. No. 2016017, 10-25-2016)

Sec. 58-44. Purpose.

The ordinance from which this article is derived is adopted for the purpose of:

- (1) Regulating certain land disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
- (2) Establishing procedures through which these purposes can be fulfilled.

(Code 2015, § 159.01; Ord. No. 2016017, 10-25-2016)

Sec. 58-45. Jurisdiction.

(a) The ordinance from which this article is derived is hereby adopted by the Board of Commissioners to apply to all areas within the corporate limits of the town.

(b) The commission shall have jurisdiction, to the exclusion of local governments, to adopt rules concerning land disturbing activities that are:

- (1) Conducted by the state.
- (2) Conducted by the United States.

- (3) Conducted by persons having the power of eminent domain other than a local government.
- (4) Conducted by a local government.
- (5) Funded in whole or in part by the state or the United States.
- (6) Related to oil and gas exploration and development on the well pad site.

In addition, certain exclusions are set forth in section 58-46.

(c) Where a conflict exists between any limitation or requirement contained in this article and those in any other ordinance, regulation, or plan, the more restrictive limitation or requirement shall apply. Except as otherwise provided herein, this article shall not repeal, abrogate, or revoke any other ordinance, regulation, or plan.

(Code 2015, § 159.02; Ord. No. 2016017, 10-25-2016)

Sec. 58-46. Exclusions.

This article shall not apply to the following land disturbing activities:

- (1) Activities including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
 - b. Dairy animals and dairy products.
 - c. Poultry and poultry products.

- d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
 - e. Bees and apiary products.
 - f. Fur-producing animals.
 - g. Mulch, ornamental plants, and other horticultural products. For purposes of this subsection, the term "mulch" means substances composed primarily of plant remains or mixtures of such substances.
- (2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the department.
 - (3) Activities for which a permit is required under the Mining Act of 1971, G.S. ch. 74, art. 7.
 - (4) For the duration of an emergency, activities essential to protect human life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5).
 - (5) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under section 404 of the Clean Water Act.
 - (6) Activities undertaken pursuant to natural resources conservation service standards to restore the wetlands functions of converted wetlands as defined in 7 CFR 12.2. (Code 2015, § 159.04; Ord. No. 2016017, 10-25-2016)

Sec. 58-47. General requirements and objectives.

(a) *Plan required.* No person shall initiate any land disturbing activity which uncovers more than 12,000 square feet of land for commercial, indus-

trial, or subdivision development without having a plan approved by the erosion control specialist. Land disturbing activities resulting from single-family residential development on an individual lot which disturbs one acre of land or less are excluded from plan submittal and approval, provided that erosion control devices are installed in accordance with the details for residential lot development found in the Town of Waxhaw Engineering, Standards and Procedures Manual. Single-family residential development exceeding one acre of land disturbed will be required to submit for plan approval. Land disturbing activities resulting from single-family residential development on multiple contiguous lots which disturb a total of one acre of land or less may conduct such activity with a single approved plan encompassing all the lots or with separate approved ESC installation and maintenance agreements for each lot.

(b) *ESC installation and maintenance agreement required.* No person shall initiate any land disturbing activity for the purpose of new single-family residential development on an individual lot to a maximum of one acre, without having an ESC installation and maintenance agreement approved by the erosion control specialist.

(c) *Protection of property.* Persons conducting land disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

(d) *Basic control objectives.* A plan may be disapproved pursuant to section 58-58 if the plan fails to address the following control objectives:

- (1) *Identify critical areas.* On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

- (2) *Limit time of exposure.* All land disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time.
- (3) *Limit exposed areas.* All land disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- (4) *Control surface water.* Surface water runoff originating upgrate of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- (5) *Control sedimentation.* All land disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
- (6) *Manage stormwater runoff.* When the increase in the velocity of stormwater runoff resulting from a land disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

(Code 2015, § 159.05; Ord. No. 2016017, 10-25-2016)

Sec. 58-48. Mandatory standards for land disturbing activities.

No land disturbing activity subject to the control of this article shall be undertaken except in accordance with the following mandatory standards:

- (1) *Buffer zone.*
 - a. No land disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided

along the margin of the watercourse of sufficient width to confine visible siltation within 25 percent of the buffer zone nearest the land disturbing activity.

- b. Unless otherwise provided, the width of the buffer zone begins and is measured landward from the normal pool elevation of impounded structures (lakes) to the nearest edge of the disturbed area and/or five feet from the edge of the top of the bank of streams or rivers to the nearest edge of the disturbed area. Natural or artificial means of confining visible siltation must be placed, constructed or installed outside the undisturbed buffer zone.
- c. For any watercourse, where more than one stream buffer width is imposed by this Code or other local, state or federal law, rule, or regulation, the greater buffer width stipulated shall apply.

- (2) *Graded slopes and fills.* The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 14 calendar days of completion of any phase of grading, be planted or otherwise be provided with ground cover, devices, or structures sufficient to restrain erosion.

- (3) *Ground cover.* Whenever more than 12,000 square feet of land is uncovered or new residential development on an individual lot is initiated, the person conducting the land disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land disturbing

activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Provisions for a ground cover sufficient to restrain erosion must be accomplished within 15 working days or 60 calendar days, whichever is shorter, following completion of construction or development.

- (4) *Prior plan approval.* No person shall initiate any land disturbing activity on a tract if more than 12,000 square feet of land is to be uncovered, excluding single-family residential development in accordance with section 58-47(b), unless, 30 or more days prior to initiating the activity, a plan is filed with and approved by the erosion control specialist. The erosion control specialist shall forward to the state director of the division of water quality a copy of each plan for a land disturbing activity that involves the utilization of ditches for the purpose of dewatering or lowering the water table of the tract.
- (5) *Zoning permits.* Any person requesting a grading permit in association with a land disturbing activity on a tract which involves the uncovering of more than 12,000 square feet of land or new residential development on an individual lot shall be required to have an approved erosion and sedimentation control plan or ESC installation and maintenance agreement in accordance with this article.

(Code 2015, § 159.06; Ord. No. 2016017, 10-25-2016)

Sec. 58-49. Design and performance standards.

Erosion and sedimentation control measures, structures, and devices shall be so planned, de-

signed, and constructed as to provide protection from the calculated maximum peak rate of stormwater runoff from the ten-year storm. Stormwater runoff rates shall be calculated using the procedures in the USDA, Natural Resources Conservation Service's "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures.

(Code 2015, § 159.07; Ord. No. 2016017, 10-25-2016)

Sec. 58-50. Stormwater outlet protection.

(a) Persons shall conduct land disturbing activity so that the post-construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

- (1) The velocity established in table 58-50-1; or
- (2) The velocity of the ten-year storm runoff in the receiving watercourse prior to the land disturbing activity.

(b) If the conditions of subsection (a) of this section cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to land disturbing activity" velocity by ten percent.

(c) Acceptable management measures. Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The town recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:

- (1) Avoid increases in surface runoff volume and velocity by including measures to pro-

mote infiltration to compensate for increased runoff from areas rendered impervious.

- (2) Avoid increases in stormwater runoff discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections.
- (3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures.
- (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

(d) Exceptions. This rule shall not apply where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

(e) Maximum permissible velocity for stormwater discharges shall be regulated in accordance with table 58-50-1.

Table 58-50-1
Maximum Permissible Velocities

<i>Material</i>	<i>Feet/Second</i>	<i>Meters/Second</i>
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7

<i>Material</i>	<i>Feet/Second</i>	<i>Meters/Second</i>
Shales and hard pans	6.0	1.8

(Code 2015, § 159.08; Ord. No. 2016017, 10-25-2016)

Sec. 58-51. Borrow and waste areas.

When the person conducting the land disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the state department of environment and natural resources' division of solid waste management, shall be considered as part of the land disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land disturbing activity.

(Code 2015, § 159.09; Ord. No. 2016017, 10-25-2016)

Sec. 58-52. Access and haul roads.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land disturbing activity shall be considered a part of such activity.

(Code 2015, § 159.10; Ord. No. 2016017, 10-25-2016)

Sec. 58-53. Operations in lakes or natural watercourses.

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a lake, stream or other water-

course where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the lake, stream or other watercourse flow characteristics, except when justification acceptable to the town for significant alteration to flow characteristic is provided.

(Code 2015, § 159.11; Ord. No. 2016017, 10-25-2016)

Sec. 58-54. Responsibility for maintenance.

During the development of a site, the person conducting the land disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this article or the Act, or any order adopted pursuant to this article or the Act. After site development, the landowner or person in possession of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

(Code 2015, § 159.12; Ord. No. 2016017, 10-25-2016)

Sec. 58-55. Additional measures.

Whenever the erosion control specialist determines that significant sedimentation is occurring as a result of land disturbing activity, despite application and maintenance of protective practices, the person conducting the land disturbing activity will be required to and shall take additional protective action.

(Code 2015, § 159.13; Ord. No. 2016017, 10-25-2016)

Sec. 58-56. Existing uncovered areas.

(a) All uncovered areas existing on the effective date of the ordinance from which this article is derived which resulted from land disturbing activity which areas exceed one acre of land, that are

subject to continued accelerated erosion and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(b) The erosion control specialist will serve upon the landowner, or other person in possession or control of that land, a written notice of violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice will set forth the measures needed to comply, and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the erosion control specialist shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance.

(c) The erosion control specialist reserves the right to require preparation and approval of a plan in any instance where extensive control measures are required.

(Code 2015, § 159.14; Ord. No. 2016017, 10-25-2016)

Sec. 58-57. Permits.

(a) No person shall undertake any land disturbing activity subject to this article without having first obtained a plan certificate and letter of approval or ESC installation and maintenance agreement approval from the erosion control specialist, except that no plan certificate and letter of approval or ESC installation and maintenance agreement approval shall be required for any land disturbing activity:

- (1) For the purpose of fighting fires;
- (2) For the stock piling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that

sediment control measures have been utilized to protect against off-site damage; or

- (3) That does not disturb more than 12,000 square feet in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

(b) Although a plan certificate and letter of approval is not required for land disturbing activity comprising less than 12,000 square feet of land or less than one acre for residential projects, such activity shall be subject to all other requirements of this article and any other applicable standards or ordinances adopted by the town.

(c) Submittals for erosion and sediment control plan approval and erosion control inspections shall be subject to any and all relevant fees as adopted by the Board of Commissioners and prescribed in this Code. Fees shall accompany plan submittals, otherwise the submittal shall be determined incomplete and shall be returned to the applicant.

(Code 2015, § 159.15; Ord. No. 2016017, 10-25-2016)

Sec. 58-58. Erosion and sedimentation control plans.

(a) Persons conducting land disturbing activity shall be responsible for preparing a plan for all land disturbing activities subject to this article whenever the proposed activity is to be undertaken on a tract disturbing more than 12,000 square feet of land, excluding single-family residential development addressed in section 58-47(b).

(b) Seven complete copies of the plan shall be filed with the control specialist in the office of the development services department at least 30 days prior to the commencement of the proposed activity. A fee, made payable to the town, shall be charged for each plan review. Such fee shall be in accordance with a fee schedule adopted by the

Board of Commissioners. No plan shall be considered complete unless accompanied by such fee and a performance bond in the form of a certified check, cash or irrevocable letter of credit, in an amount deemed sufficient by the engineering department to cover all costs of protection or other improvements required to establish protective cover on the site in conformity with this article. The performance bond shall remain effective until work has been completed, inspected and approved by the development services department.

(c) The erosion control specialist shall transmit a copy of the complete plan to the county soil and water conservation district (SWCD) for their review. The SWCD shall be given up to 20 days to make a comment on the plan. Failure of the SWCD to submit its comments to the erosion control specialist within such time period shall not delay final action on the proposed plan by the erosion control specialist.

(d) The erosion control specialist shall render a decision on a plan within 30 days of submittal. The erosion control specialist shall condition approval of a draft plan upon the applicant's compliance with local, state and federal water quality laws, regulations, ordinances and rules. Such decision shall be approval, approval with modifications, approval with performance reservations, or disapproval. Failure to approve, approve with modifications or performance reservations, or disapprove a complete plan within 30 days of receipt shall be deemed approval.

(e) Any final decision made pertaining to the proposed plan shall be filed in the development services department (or as otherwise designated by the town) and sent to the applicant by first class mail.

(f) Denial of a plan or a revised plan must specifically state in writing the reasons for disapproval. The erosion control specialist must approve, approve with modifications or performance

reservations, or disapprove a revised plan within 15 days of receipt, or it is deemed to be approved.

(g) Plan approval shall expire three years following the date of approval, if no land disturbing activity has been undertaken, or if no land disturbing activity has occurred within three years. If, following commencement of a land disturbing activity pursuant to an approved plan, the erosion control specialist determines that the plan is inadequate to meet the requirements of this article, the erosion control specialist may require any revision of the plan that is necessary to comply with this article.

(h) Persons conducting land disturbing activities which are addressed by this section shall have secured a plan certificate and letter of approval (in accordance with procedures described herein) before any land disturbing activities commence. A copy of the approved plan and the certificate of plan approval shall be maintained at the job site by the persons conducting the land disturbing activity. After approving the plan, if the erosion control specialist, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the specialist may require that a revised plan be submitted. Pending the preparation and approval of the revised plan, work shall cease or shall continue under conditions outlined by the erosion control specialist.

(i) A plan may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land disturbing activity or their attorney-in-fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of the state, a state agent must be designated in the statement for the purpose of receiving notice of

compliance or noncompliance with the plan, the Act, this article, or rules or orders adopted or issued pursuant to this article. If the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land disturbing activity.

(j) The person submitting a plan to the erosion control specialist is, prior to submission of the plan, solely and exclusively responsible for determining whether the proposed land disturbing activities require any form of state or federal environmental certification or documentation. Any plan submitted for a land disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1 et seq.) shall be deemed incomplete until a complete environmental document is available for town review. The erosion control specialist, upon discovery that an environmental certification or documentation is required but was not obtained, shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to subsection (d) of this section shall not begin until a complete environmental document or certificate is available for review by the erosion control specialist. However, no term or condition in this article shall be interpreted to place the burden for determining the necessity for an environmental certificate or documentation upon the erosion control specialist, and the person submitting the plan, as well as any other persons specified by law, rule or regulation, shall remain solely and exclusively responsible for such determination.

(k) The plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures

planned to comply with the requirements of this article. Any erosion and sediment control measures and/or devices must be drawn to scale and contour when deemed applicable by the erosion control specialist. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation shall be found in the Town of Waxhaw Engineering, Standards and Procedures Manual. The erosion control specialist shall automatically disapprove a plan if it is determined that implementation of the plan would result in a violation of rules adopted by the environmental management commission to protect riparian buffers along surface waters.

(l) A plan may be disapproved upon a finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:

- (1) Is conducting or has conducted land disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the NCSCC or the town pursuant to the Act and has not complied with the notice within the time specified in the notice;
- (2) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due;
- (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act; or
- (4) Has failed to substantially comply with applicable local, state or federal laws, regulations, rules or ordinances adopted pursuant to the Act. For purposes of this subsection (l), an applicant's record may be considered for only two years prior to the application date.

(m) Applications for amendment of a plan in written and/or graphic form may be made at any time under the same format as the original application. Until such time as said amendment is approved by the erosion control specialist, land disturbing activity shall not proceed except in accordance with the plan as originally approved.

(n) Any person engaged in land disturbing activity who fails to file a plan in accordance with this article, or who conducts a land disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this article.

(Code 2015, § 159.16; Ord. No. 2016017, 10-25-2016)

Sec. 58-59. Transfer of plans.

(a) The town may transfer a plan if all of the following conditions are met:

- (1) The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.
- (2) The local government finds all of the following:
 - a. The plan holder is one of the following:
 - 1. A natural person who is deceased.
 - 2. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
 - 3. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.

4. A person who has sold the property on which the permitted activity is occurring or will occur.
 - b. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
 - c. The successor-owner is the sole claimant of the right to engage in the permitted activity.
 - d. There will be no substantial change in the permitted activity.

(b) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

(c) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

(d) Notwithstanding changes to law made after the original issuance of the plan, the local government may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the local government from requiring a revised plan pursuant to section 58-58(g).

(e) Denials of transfer requests may be appealed pursuant to section 58-64(1).
(Code 2015, § 159.17; Ord. No. 2016017, 10-25-2016)

Sec. 58-60. Inspections and investigations.

(a) The erosion control specialist will periodically inspect land disturbing activities to ensure compliance with the Act, this article, or rules or orders adopted or issued pursuant to this article, and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from land disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan. The land-

owner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with section 58-48(3). The person who performs the inspection shall maintain and make available a record of the deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan.

(b) No person shall willfully resist, delay, or obstruct the erosion control specialist, while inspecting or attempting to inspect a land disturbing activity under this section.

(c) If it is determined that a person engaged in the land disturbing activity has failed to comply with the Act, this article, or rules, or orders adopted or issued pursuant to this article, or has failed to comply with an approved plan, a notice of violation shall be served upon that person. The notice shall be served by registered or certified mail or by any means authorized under G.S. 1A-1, Rule 4. The notice of violation shall specify a date by which, or a cure period within which, the person must comply with this article, and inform the person of the actions that need to be taken to comply with this article. The notice shall set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which such measures shall be completed, and warn that failure to correct the violation within the time period stated is subject to a civil penalty and other enforcement actions. However, no time period for compliance need be given for failure to submit a plan for approval, for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties, or

for the penalty that may be assessed pursuant to this article for the day the violation is assessed by the erosion control specialist. Any person who fails to comply within the time specified in the notice is subject to additional civil and criminal penalties for a continuing violation as provided in this article. If the person engaged in the land disturbing activity has not received a previous notice of violation under this section, the erosion control specialist shall deliver the notice of violation in person and shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program in the department, referral to a cooperative extension program, or by the provision of written materials such as department guidance documents. If the erosion control specialist is unable to deliver the notice of violation in person within 15 days following discovery of the violation, the notice of violation may be served in the manner prescribed for service of process by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures.

(d) The erosion control specialist shall have the power to conduct such investigation as may be reasonably deemed necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land disturbing activity. No person shall refuse entry or access to the erosion control specialist who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out their official duties as provided in this article.

(e) The erosion control specialist shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land disturbing activity.

(f) On any tract on which five or more acres are disturbed, the person conducting land disturbing activity will be responsible for self-inspection of erosion and sedimentation control facilities at least once every seven days or within 24 hours of a storm event of greater than one-half inch of rain per 24-hour period.

(Code 2015, § 159.18; Ord. No. 2016017, 10-25-2016)

Sec. 58-61. Penalties; stop work orders.

(a) *Civil penalties.*

- (1) Any person who violates any of the provisions of the applicable state, federal or local laws, rules, regulations or ordinances, including this article, or rules or orders adopted or issued pursuant to applicable state, federal or local laws, rules, regulations or ordinances, including this article, or who initiates or continues a land disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation is \$5,000.00. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land disturbing activity for which the erosion and sedimentation control plan is required is \$25,000.00.

- (2) The erosion control specialist shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty, the reason for assessing the penalty, the option available to that person to request a remission of the civil penalty under G.S. 113A-64.2, the date of the deadline for that person to make the remission request regarding this particular penalty, and, when that person has not been assessed any civil penalty under this section for any previous violation, the date of the deadline for that person to abate continuing environmental damage resulting from the violation in order to be subject to the maximum cumulative total civil penalty under subsection (a)(1) of this section. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for a contested case under G.S. ch. 150B, art. 3. If a violator does not pay a civil penalty assessed by the town within 30 days after it is due, the erosion control specialist may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.
- (3) In determining the amount of the penalty, items which may be considered are the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully and the prior record of the violator in complying with or failing to comply with this article.
- (4) The clear proceeds of civil penalties collected by the town must be remitted to the civil penalty and forfeiture fund in accordance with G.S. 115C-457.2.
- (b) *Criminal penalties.* Any person who knowingly or willfully violates any provision of this article, or rule, regulation or order adopted or issued pursuant to this article, or who knowingly or willfully initiates or continues a land disturbing activity for which a plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000.00.
- (c) *Stop work orders.*
- (1) The erosion control specialist may issue a stop work order if he finds that a land disturbing activity is being conducted in violation of this section or of any rule adopted or order issued pursuant to this section, that the violation is knowing and willful, and that either:
- Off-site sedimentation has eliminated or severely degraded a use in a lake or natural watercourse or that such degradation is imminent.
 - Off-site sedimentation has caused severe damage to adjacent land or that such damage is imminent.
 - The land disturbing activity is being conducted without an approved plan.
- (2) The stop work order shall be in writing and shall state what work is to be stopped

and what measures are required to abate the violation. The order shall include a statement of the findings made by the town pursuant to subsection (a) of this section, and shall list the conditions under which work that has been stopped by the order may be resumed. The delivery of equipment and materials which does not contribute to the violation may continue while the stop work order is in effect. A copy of this section shall be attached to the order.

- (3) The stop work order shall be served by the county sheriff or by some other person duly authorized by law to serve process as provided by G.S. 1A-1, Rule 4, and shall be served on the person at the site of the land disturbing activity who is in operational control of the land disturbing activity. The sheriff or other person duly authorized by law to serve process shall post a copy of the stop work order in a conspicuous place at the site of the land disturbing activity. The town shall also deliver a copy of the stop work order to any person that the town has reason to believe may be responsible for the violation.
- (4) The directives of a stop work order become effective upon service of the order. Thereafter, any person notified of the stop work order who violates any of the directives set out in the order may be assessed a civil penalty as provided in subsection (a) of this section. A stop work order issued pursuant to this section may be issued for a period not to exceed five days.
- (5) The erosion control specialist shall designate an employee (which may be the erosion control specialist) to monitor compliance with the stop work order. The name of the employee so designated shall be included in the stop work order. The em-

ployee so designated, or the erosion control specialist, shall rescind the stop work order if all the violations for which the stop work order are issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The erosion control specialist shall rescind a stop work order that is issued in error.

- (6) The issuance of a stop work order shall be a final agency decision subject to judicial review in the same manner as an order in a contested case pursuant to G.S. ch. 150B, art. 4. The petition for judicial review shall be filed in the superior court of the county in which the land disturbing activity is being conducted.
 - (7) As used in this section, days are computed as provided in G.S. 1A-1, Rule 6.
 - (8) The attorney for the town shall file a cause of action to abate the violations which resulted in the issuance of a stop work order within two business days of the service of the stop work order. The cause of action shall include a motion for an ex parte temporary restraining order to abate the violation and to effect necessary remedial measures. The resident superior court judge, or any judge assigned to hear the motion for the temporary restraining order, shall hear and determine the motion within two days of the filing of the complaint. The clerk of superior court shall accept complaints filed pursuant to this section without the payment of filing fees. Filing fees shall be paid to the clerk of superior court within 30 days of the filing of the complaint.
- (Code 2015, § 159.19; Ord. No. 2016017, 10-25-2016)

Sec. 58-62. Injunctive relief.

(a) Whenever the erosion control specialist has reasonable cause to believe that any person is violating or threatening to violate this article or any term, condition, or provision of an approved plan, he may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court in the county.

(b) Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order of judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this article.

(Code 2015, § 159.20; Ord. No. 2016017, 10-25-2016)

Sec. 58-63. Restoration of areas affected by failure to comply.

The erosion control specialist may require a person who engaged in a land disturbing activity and failed to retain sediment generated by the activity as required by section 58-48(3) to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this article.

(Code 2015, § 159.21; Ord. No. 2016017, 10-25-2016)

Sec. 58-64. Appeals.

Procedures which constitute the appeals process are related to the following actions:

- (1) *Plan approval with modifications or plan disapproval.* The appeal of an approval,

approval with modifications or disapproval of a plan made by the erosion control specialist with regard to this article shall be governed by the following provisions:

- a. The order of approval, disapproval, or modification of any proposed plan made by the erosion control specialist shall entitle the person challenging such decision to a public hearing before the board of adjustment if such person submits written demand for a hearing and completes the necessary forms and pays the required appeals fee within 15 days following the date the decision was filed in the development services department office or mailed to the applicant, whichever date is later. Such written request and completed forms shall be submitted to the clerk of the board of adjustment or his designee. Forms shall be available at the town hall, or as directed by the erosion control specialist. A fee for such public hearing shall be in accordance with a fee schedule adopted by the Board of Commissioners. No request shall be considered complete unless accompanied by such fee.
- b. Notice of the board of adjustment public hearing shall be sent by first class mail to the applicant at least ten days prior to the public hearing and to any person who has submitted written request to receive such notice at least ten days prior to the date of the public hearing. The hearing shall be held no later than 30 days after the date of receipt of said written request.
- c. A hearing shall be conducted by the board of adjustment. A concurring

vote per the board of adjustment's officially adopted bylaws will be necessary to reverse any order, requirement, decision, or determination of any official charged with the enforcement of this article, or to decide in favor of an appellant any matter upon which is required to pass or to grant variance from the provisions of this article. The town shall keep minutes of the proceedings, showing the votes of each member upon each question and the attendance of each member at such hearings. The final disposition of the town shall be based on findings of fact.

- d. A party dissatisfied with the decision of the board of adjustment following the public hearing shall appeal such decision to the NCSCC as provided by G.S. 113A-61(c).

- (2) *Plan disapproval due to prior violation, unpaid penalties, or noncompliance.* In the event that a plan is disapproved pursuant to section 58-58(l), the town control specialist shall notify the director of the division of land resources of such disapproval, along with the reasons therefor, within ten days after the date of the decision. The erosion control specialist shall advise the applicant and the director of the division of land resources in writing as to the specific reasons that the plan was disapproved. The applicant may appeal the erosion control specialist's disapproval of the plan pursuant to section 58-58(l) directly to the NCSCC.
- (3) *Issuance of notice of violation, penalties, or order of restoration.* The appeal of issuance of notice of violation, assessment of civil penalty, or order of restoration made by the town with regard to this article shall

be governed by the following provisions: The issuance of a notice of violation, assessment of a civil penalty, or an order of restoration by the erosion control specialist shall entitle the person alleged to be in violation of this article (petitioner) to appeal within 30 days by filing a petition for a contested case with the state office of administrative hearings under G.S. ch. 150B, art. 3.

(Code 2015, § 159.22; Ord. No. 2016017, 10-25-2016)

Chapters 59—61

RESERVED

Chapter 62

STREETS AND SIDEWALKS

Article I. In General

Secs. 62-1—62-18. Reserved.

Article II. Parades

Sec. 62-19.	Definitions.
Sec. 62-20.	Permit required.
Sec. 62-21.	Unlawful participation.
Sec. 62-22.	Applications for permits.
Sec. 62-23.	Issuance of permits.
Sec. 62-24.	Processing time and notice.
Sec. 62-25.	Revocation of permit.
Sec. 62-26.	Sign.
Sec. 62-27.	Parking restrictions.
Sec. 62-28.	Violation of state law.
Sec. 62-29.	Sidewalk obstruction.
Sec. 62-30.	Exemptions.

ARTICLE I. IN GENERAL

Secs. 62-1—62-18. Reserved.

ARTICLE II. PARADES**Sec. 62-19. Definitions.**

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

Block means the portions of any street lying between its intersections with other streets.

Parade means any parade, march, demonstration, film-making project, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, alleys, parks or other public places, involving more than eight persons or more than three vehicles.

Person means any person, firm, corporation, partnership, association or other organization, whether formal or informal.

(Prior Code, § 31-100; Code 2015, § 92.01; Ord. of 2-22-1988; Ord. of 3-12-1990)

Sec. 62-20. Permit required.

It shall be unlawful for any person to organize, conduct or participate in any parade in or upon any street, sidewalk, alley or other public place within the town unless a permit has been issued by the town in accordance with the provisions of this article.

(Prior Code, § 31-100; Code 2015, § 92.02; Ord. of 2-22-1988; Ord. of 3-12-1990)

Sec. 62-21. Unlawful participation.

It shall be unlawful for any person to conduct or participate in any parade for any purpose or in any manner other than those set out in the application and permit.

(Prior Code, § 31-100; Code 2015, § 92.03; Ord. of 2-22-1988; Ord. of 3-12-1990)

Sec. 62-22. Applications for permits.

A written application on a form supplied by the town shall be made to the chief of police by persons desiring to have a parade. The applications shall be submitted at least 72 hours in advance. Employees of the police department shall immediately indicate the time of receipt on the face of the application. The application shall be signed by the applicant and shall include the following:

- (1) The name, address and telephone number of the applicant;
- (2) If the parade or demonstration is proposed to be conducted for, on behalf of or by any organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible head of the organization;
- (3) The name, address and telephone number of the person to be present and responsible for the conduct of the parade or demonstration;
- (4) The date when the parade or demonstration will be conducted;
- (5) The location of streets of any assembly areas for the parade or demonstration;
- (6) The time when units of the parade or demonstration will begin to assemble at any assembly area;
- (7) The times when the parade or demonstration will begin and terminate;
- (8) The route to be traveled, the starting point and the termination point, or the location if stationary;
- (9) A statement as to whether the parade or demonstration will occupy all or only a

portion of the width of the streets, sidewalks, parks, alleys or other public places proposed to be traversed or occupied;

- (10) The approximate number of persons, animals and vehicles expected to participate, and the type of animals and a description of the vehicles; and

(11) Whether minors are likely to participate. (Prior Code, § 31-100; Code 2015, § 92.04; Ord. of 2-22-1988; Ord. of 3-12-1990)

Sec. 62-23. Issuance of permits.

(a) The application is expressly included as part of any permit granted. A permit shall be issued on a form supplied by the town, to the person who signed the application. The person shall be required to accompany the parade or demonstration and the permit shall be invalid unless in his possession. The permit shall be deemed issued under the terms and for the purposes stated in the application only, unless otherwise note. The permit shall set the duration, speed of travel and space between persons or vehicles in the parade or demonstration, may prescribe the portions and areas of streets, alleys, sidewalks or other public places to be used, and may impose other reasonable requirements necessary for the control and free movement of pedestrian or vehicular traffic and to protect the safety and property rights of participants and the general public.

(b) In deciding whether to issue a permit, the chief of police shall consider:

- (1) The number of persons to participate;
- (2) The anticipated traffic conditions at the time and date proposed for the activity;
- (3) The schedule of other similar activities for which permits may have been issued;
- (4) The adequacy of adult supervision for any minor scheduled to participate;

- (5) The availability of town personnel whose presence on duty may be required by the activity and by the necessity to protect the general public; and
- (6) The adequacy of public facilities in the location proposed for the activity to accommodate the proposed activity and the normal public use of public facilities in the proposed location.

(Prior Code, § 31-100; Code 2015, § 92.05; Ord. of 2-22-1988)

Sec. 62-24. Processing time and notice.

(a) Applications shall be processed and decisions made as expeditiously as possible, and at least within 48 hours. If the application was submitted more than seven days in advance of the event, the permit, or written notice of denial shall be mailed to the applicant.

(b) Otherwise, the police department shall exercise reasonable diligence in attempting to notify the applicant of the action taken as soon as possible by telephone or other means.

(c) Any person aggrieved by action taken on a permit application may file a written notice of appeal, first with the town clerk and then with the Board of Commissioners. The town clerk shall act on the appeal as expeditiously as possible, in good faith. The Board of Commissioners shall hear an appeal at the first meeting at which the law allows the matter to be considered.

(Prior Code, § 31-100; Code 2015, § 92.07; Ord. of 2-22-1988; Ord. of 3-12-1990)

Sec. 62-25. Revocation of permit.

The chief of police may revoke any permit granted for a parade or demonstration for the following causes:

- (1) The substantial violation of this article or the terms under conditions of a permit; and/or

(2) Violation of other laws by those participating in the parade or demonstration.
(Prior Code, § 31-100; Code 2015, § 92.08; Ord. of 2-22-1988; Ord. of 3-12-1990)

Sec. 62-26. Sign.

Signs or posters carried by participants shall be made of cardboard no thicker than one-fourth inch. Supports for the signs or posters shall be made of non-metallic material no wider than 3½ inches, nor thicker than one inch. The diameter of round supports may not exceed two inches.
(Prior Code, § 31-100; Code 2015, § 92.10; Ord. of 2-22-1988)

Sec. 62-27. Parking restrictions.

(a) The chief of police, when reasonably necessary, may prohibit or restrict the parking of vehicles along a street or highway constituting a part of the route of a parade or demonstration. The chief of police shall cause signs to be posted to the effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

(b) No person shall be liable for parking on a street if the signs are posted less than 24 hours in advance.
(Prior Code, § 31-100; Code 2015, § 92.11; Ord. of 2-22-1988)

Sec. 62-28. Violation of state law.

The prohibition contained in G.S. 14-277.2 against possession of dangerous weapons and other provisions of law shall be strictly enforced.
(Prior Code, § 31-100; Code 2015, § 92.12; Ord. of 2-22-1988)

Sec. 62-29. Sidewalk obstruction.

Police officers observing unreasonable obstructions of sidewalks as a result of a parade, so that pedestrians are unreasonably hindered or forced

to step into the street, shall take reasonable steps to make the sidewalk available for pedestrian travel.
(Prior Code, § 31-100; Code 2015, § 92.13; Ord. of 2-22-1988)

Sec. 62-30. Exemptions.

The provisions of this article shall not apply to:

- (1) Funeral processions;
- (2) Students going to or from school classes or participating in educational or recreational activity where the activity is under the supervision and direction of the proper school authorities;
- (3) Any governmental agency acting within the scope of its functions;
- (4) Picketing or other orderly processions on the sidewalk, involving fewer than ten persons, and conducted entirely within one block, that do not violate any other municipal or state law; and/or
- (5) A parade that is conducted under the sponsorship of the town.

(Prior Code, § 31-100; Code 2015, § 92.14; Ord. of 2-22-1988)

Chapters 63—65

RESERVED

Chapter 66

TRAFFIC*

Article I. In General

Secs. 66-1—66-18. Reserved.

Article II. Parking Regulations

Sec. 66-19. General standards.
Sec. 66-20. Parking on private property.
Sec. 66-21. Trucks, tractors, trailers, motorcoaches and the like.
Sec. 66-22. Penalty.
Sec. 66-23. Prohibited parking; restrictions.
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Article III. Traffic Regulations

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Sec. 66-49. Moving vehicles on any public school grounds.
Sec. 66-50. Hanging on to motor vehicles.
Sec. 66-51. One-way streets.
Sec. 66-52. Through streets.
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Article IV. Access to Curb Cuts

Sec. 66-79. Permission required to access and connect to public street.
Sec. 66-80. Regulation of connection and payment of costs.
Sec. 66-81. Traffic impact analysis/TIA policy.
Sec. 66-82. Town engineer authority.
Sec. 66-83. Penalties and remedies.

*State law reference—Streets, traffic and parking, G.S. 160A-296 et seq.

ARTICLE I. IN GENERAL**Secs. 66-1—66-18. Reserved.****ARTICLE II. PARKING REGULATIONS****Sec. 66-19. General standards.**

(a) It shall be unlawful for any person to park or cause to be parked any motor vehicle upon any street, alley or road, or portion thereof, within the town, except when the motor vehicle is disabled to an extent that it is impossible to avoid stopping and temporarily leaving the motor vehicle, or when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, which:

- (1) Has been designated by a "No Parking" sign erected by the town near the curb or side of the street, alley or road;
- (2) Has been designated by a "Public Parking" sign located near a curb or side of the street, alley or road for any period of time in excess of the parking time limit stated on the sign;
- (3) Has been double parked;
- (4) Has been improperly parked, thereby obstructing or interfering with the normal flow of traffic or creating a traffic hazard;
- (5) Causes the left side of the motor vehicle to be next to the curb or curblines; except that on any one-way street, alley or road, the motor vehicle may be parked on either side so long as the front of the vehicle is headed in the direction of the traffic on the street, alley or road; and/or
- (6) Has been parked within 15 feet in any direction of a fire hydrant or fire station, unless a shorter distance for parking in the

area has been indicated by appropriate yellow markings on the curb or street or by other appropriate signs at such point.

(b) The intent of this section is to promote public safety, free flow of commerce and to prevent traffic hazards by controlling the parking of motor vehicles upon the streets, alleys and roads, or portions thereof, located in the town.

(c) Any person, or person acting as an agent for any person, firm or corporation, who shall park or cause to be parked any motor vehicle in any manner set forth in this section shall be in violation of this section and the breach thereof shall subject the person to the penalties provided in section 1-14.

(Prior Code, § 6-102; Code 2015, § 71.01; Ord. of 3-29-1955; Ord. of 12-1-1975; Ord. of 7-16-2001)

Sec. 66-20. Parking on private property.

It shall be unlawful for any person to park any motor vehicle in or upon any private property, alleyway or parking lot within the town without first receiving the express permission or invitation of the owner thereof, or of the tenant or lessee in possession of the private property, alleyway, driveway or parking lot, or of any person lawfully entitled to the use of the private property, alleyway, driveway or parking lot.

(Prior Code, § 11-100; Code 2015, § 71.02)

Sec. 66-21. Trucks, tractors, trailers, motorcoaches and the like.

(a) *On-street parking of truck tractors/truck trailer units in public streets, alleys and bridges.* In accordance with G.S. 160A-301, the Board of Commissioners finds and declares that it is unsafe for truck tractors and/or truck trailer units to be parked or remain standing on the public streets of the town.

- (1) It shall be unlawful for truck tractors and/or truck trailer units to be parked or

remain standing on public streets, alleys and bridges or rights-of-way thereof within the municipal limits of the town.

- (2) This section shall be effective when appropriate signs giving notice thereof have been erected within the municipal limits.

(b) *Unlicensed vehicles, special/commercial vehicles and travel/camping trailers/motorcoaches.*

- (1) An automobile, truck and/or trailer of any size and/or type without a current license plate and a current vehicle safety inspection emblem shall not be parked and/or stored within any residential primary zoning district, as indicated on the zoning map, for a period exceeding 60 days unless contained within a completely enclosed building. Any vehicle not found in compliance with this requirement will constitute a separate offense.

- (2) A special/commercial vehicle, as defined in subsection (b)(4) of this section, is prohibited from being parked and/or stored in any residential primary zoning district as indicated on the zoning map. Exception is taken to this prohibition in the following instances:

- a. The vehicle is engaged in a permitted construction project in the zoning district or is engaged in routine pickups, deliveries or similar typical activities in the district;
- b. The vehicle is engaged in bona fide farm operations;
- c. The vehicle is designed and operated in conjunction with typical residential purposes such as a home garden tractor or a grass mower;
- d. The vehicle is involved in a governmental purpose and/or performing an emergency function;

- e. The vehicle is licensed as a school, church or nonprofit organization bus or is a travel/motorcoach vehicle as regulated in subsection (b)(3) of this section; and/or
- f. The vehicle is associated with and stored/parked at a permitted use or legally existing nonconforming use.

Any vehicle not found in compliance with this requirement will constitute a separate offense.

- (3) Travel/camping trailer/motorcoach compliance requirements.

- a. Not more than one travel and/or camping trailer and/or motorcoach is permitted to be parked and/or stored on a lot within any residential primary zoning district as indicated on the zoning ordinance map for a period exceeding 60 days.
- b. No travel and/or camping trailer and/or motorcoach shall be occupied either permanently or temporarily while parked and/or stored, except within a conforming manufactured home park.
- c. Any vehicle and/or trailer not found in compliance with this requirement will constitute a separate offense punishable in accordance with the provisions hereof.
- d. Exception to this requirement is taken to any unit temporarily occupied for not more than seven days in any 90-day period where occupancy is for the purpose of visitation to persons residing on the premises.
- e. No vehicle/trailer shall be stored/parked in the front yard, except for temporary purposes as set out above.

Any vehicle not found in conformance with this requirement will constitute a separate offense.

- (4) The following words, terms and phrases, when used in this subsection (b), shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Special commercial vehicle means a vehicle which meets any one of the following classifications:

- 1. A large vehicle designed for off-road usage such as a bulldozer, front-end loader and similar construction equipment;
- 2. A vehicle designed to transport 16 or more passengers;
- 3. A vehicle used in the transport of hazardous materials that requires the vehicle to be placarded under 49 CFR part 172, subpart F;
- 4. A vehicle requiring the driver to have either a Class A or Class B state driver's license or the equivalent; and/or
- 5. A vehicle with a gross vehicle weight rating of 10,000 pounds or more.

(Code 2015, § 71.03; Ord. of 12-14-1992; Ord. of 3-13-1995)

Sec. 66-22. Penalty.

(a) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to section 1-14.

(b) It shall be the duty of each police officer of the town to attach to each motor vehicle found parked in violation of the provisions of section 66-19 a parking ticket to the effect that the motor

vehicle has been parked in a manner as to be in violation of section 66-19 and directing the owner or operator of the motor vehicle to report to the town clerk at town hall in regard to the violation.

- (1) An owner/operator of a motor vehicle may, within 30 days of the time the above ticket is attached to the motor vehicle or delivered to the owner or operator, pay to the town clerk as penalty for the offense indicated in the notice the sum of:

a. No parking zone:	\$15.00
b. Overtime parking:	10.00
c. Double parking:	15.00
d. Improper parking:	15.00
e. Parking on wrong side of street:	10.00
f. Parking within 15 feet of fire hydrant or fire station:	20.00

- (2) The failure of the owner or operator of the motor vehicle to appear and pay the penalty within the 30-day period shall constitute a misdemeanor and any person who shall be convicted of the violation shall be punished by a fine not exceeding \$50.00 or imprisoned for a period not exceeding 30 days.

(c) In accordance with G.S. 14-4, any citizen violating section 66-20 shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$50.00 or by imprisonment for not more than 30 days.

(d) Any violation of section 66-21 not specified shall subject the offender to civil penalties and/or criminal penal provisions of law in accordance with the provisions of section 1-14.

(e) Violation of section 66-21(a) is a misdemeanor or infraction as provided by G.S. 14-4. Any truck tractor and/or truck trailer unit not found in conformance with this requirement will constitute a separate offense.

(Prior Code, §§ 4-100, 6-102, 11-100; Code 2015, § 71.99; Ord. of 1975; Ord. of 12-14-1992; Ord. of 3-13-1995; Ord. of 2001)

Sec. 66-23. Prohibited parking; restrictions.

<i>Street/Area</i>	<i>Direction/Side</i>	<i>Location/Description</i>	<i>Restriction</i>
Brevard Street	East	Beginning at College Street to the road ending southward for a distance of 435 feet	No parking
Harvey Clay Nesbit Drive	West	From the entrance to Harvey Clay Nesbit Park to the turnaround, except for areas with designated on-street parking areas. No parking on either side of the turnaround at the terminus of Harvey Clay Nesbit Drive or the unpaved construction road extending from the turnaround to the bridge at the end of the Harvey Clay Nesbit Park boundary	No parking
Highway 16			Tractor trailer parking restricted
Kensington Drive			No parking
N.C. 16	East	From a point 600 feet south of North Church Street northward for a distance of 325 feet	
N.C. 75	South	From a point located 400 feet west of the intersection of South Church Street and N.C. 75 eastward to the intersection	No parking
North Broome Street (N.C. 16)		From North Front Street to McDonald Street	No parking
North Main Street			Tractor trailer parking restricted
Old Providence Road			Tractor trailer parking restricted
Providence Street	Left	From the fire department to corner of driveway behind Duke Power; from Duke Power on Front Street to the curve in front of fire department	
Rehobeth Road			Tractor trailer parking restricted
South Main Street			Tractor trailer parking restricted
South Providence Street	West	From a point 30 feet south of Highway 75 for a distance of 55 feet	No vehicle larger than a compact car
Town parks		Any town park. During special events, the director of parks and recreation or designee may authorize overnight parking and the posting of such authorization	No overnight vehicle or trailer parking between the hours of 11:00 p.m. and 6:00 a.m.

(Code 2015, ch. 73, sched. I; Ord. of 3-8-1976; Ord. of 8-13-1990; Ord. of 12-14-1992; Ord. of 8-28-2012; Ord. of 3-25-2014; Ord. No. 2016003, 1-12-2016; Ord. of 8-9-2016; Ord. No. 2018011, 4-10-2018)

Secs. 66-24—66-47. Reserved.

ARTICLE III. TRAFFIC REGULATIONS**Sec. 66-48. All-terrain vehicles.**

It shall be unlawful for any person to operate any all-terrain vehicle not designed for highway travel, as defined in G.S. 20-4.01, including, but not limited to, go-carts, four-wheelers and dirt bikes, upon the sidewalks of the town.

(Code 2015, § 70.01; Ord. of 1-10-2000)

Sec. 66-49. Moving vehicles on any public school grounds.

It shall be unlawful for anyone to operate, ride, propel or drive any push cart, tractor, trailer, motorcycle, go-cart, buggy or other type of motor vehicle upon the grounds of any public school, except upon the portions of the grounds which have been designated as authorized parking lots, alleyways, driveways or streets; and except for the tractors, mowing machines or motor vehicles which are authorized to operate upon the grounds of any public school for the express and limited purpose of delivering or picking up school property or maintaining the landscaping surrounding the school.

(Prior Code, § 13-100; Code 2015, § 70.02)

Sec. 66-50. Hanging on to motor vehicles.

It shall be unlawful for any person riding upon any bicycle, motorcycle, coaster, sled, roller skates, skis or any toy vehicle to attach the bicycle, motorcycle, coaster, sled, skis or toy vehicle or himself to any moving vehicle upon any public vehicular area within the corporate limits of the town.

(Code 2015, § 70.03; Ord. of 4-1-1980)

Sec. 66-51. One-way streets.

(a) The Board of Commissioners shall designate, by resolution, from time to time certain public streets as one-way streets and two-way traffic on the streets shall be prohibited.

(b) The town clerk shall keep an accurate schedule of all resolutions and streets so designated.

(c) Each resolution designating a one-way street shall become effective upon the erection of signs, markers or devices so indicating.

(Prior Code, § 6-104; Code 2015, § 70.04; Ord. of 10-9-2000)

Sec. 66-52. Through streets.

(a) Through traffic shall be prohibited on certain specified public streets from time to time and shall be designated by resolution as such. The town clerk shall keep an accurate schedule of all resolutions and streets so designated.

(b) Each resolution prohibiting through traffic on certain streets shall become effective upon the erection of signs, markers or devices so indicating.

(Prior Code, § 6-105; Code 2015, § 70.05; Ord. of 11-13-2000)

Sec. 66-53. Use of golf carts on streets.

Golf carts, as defined by G.S. 20-4.01, operated by the United Parcel Service ("UPS") are allowed from November 15 through December 31 within the public streets of the Cureton, Lawson, Millbridge, Prescott and Quellin residential subdivisions in the town limits. Golf carts must be inspected by UPS in accordance with its safety standards prior to operation on the streets referenced above. Safety requirements include functional seatbelts, headlights, taillights and brake lights. In addition, golf carts may only be driven on streets with speed limits of 35 miles per hour or less and by a person 16 years of age or older who possesses a valid driver's license. Except as expressly set forth herein, golf carts shall not be allowed on public streets within the town limits.

(Code 2015, § 70.06; Ord. of 11-24-2014; Ord. of 11-10-2015)

Sec. 66-54. Penalty.

(a) Any person violating any provision of this article for which no specific penalty is prescribed shall be subject to section 1-14.

(b) The violation of section 66-48 shall constitute an infraction as provided by G.S. 14-4, the fine for which shall be no more than \$50.00. In addition, the town may enforce section 66-48 by any one, all or a combination of the remedies authorized and prescribed by G.S. 160A-175.

(c) In accordance with G.S. 14-4, any citizen violating section 66-49 shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$50.00 or by imprisonment for not more than 30 days.

(d) Any person violating section 66-50 shall be guilty of a misdemeanor and shall be fined not more than \$50.00 or imprisoned for not more than 30 days.

(e) Any person failing or refusing to comply with section 66-51 shall be guilty of a misdemeanor.

(f) Any person failing or refusing to comply with section 66-52 shall be guilty of a misdemeanor.

(Prior Code, §§ 6-104, 6-105, 13-100; Code 2015, § 70.99; Ord. of 4-1-1980; Ord. of 1-10-2000; Ord. of 10-9-2000; Ord. of 11-13-2000)

Sec. 66-55. Regulation of bicycles on town sidewalks.

(a) Except as set forth herein, bicycles may be ridden on sidewalks within the municipal limits.

(b) Bicycles shall be operated in a safe manner with respect for the safety and use of sidewalks of others. Bicyclists shall yield the right-of-way to vehicles and pedestrians.

(c) It shall be unlawful to ride a bicycle in the historic downtown sidewalks consisting of the following sidewalks:

- (1) North Main Street commencing at Hicks Street and ending at Providence Road; and
- (2) South Main Street commencing at Hicks Street and ending at Providence Road.

(d) The prohibition of bicycles in the David G. Barnes Park remains in full force and effect. Nothing contained in this section shall preclude a person from walking or pushing a bicycle along any sidewalk in the town's limits.

(e) The violation of this schedule shall subject the violator to the civil penalties set forth in section 1-14.

(Code 2015, ch. 72, sched. I; Ord. of 7-7-2014)

Sec. 66-56. Prohibition of skateboards, rollerblades and roller skates.

(a) It shall be unlawful for any person to skateboard, rollerblade or roller skate on any municipal streets or sidewalks within the municipal limits.

(b) The violation of this section shall constitute an infraction as provided by G.S. 14-4. In addition, the town may enforce this schedule by any one, all or a combination of the remedies authorized and prescribed by G.S. 160A-175.

(Prior Code, § 3-102; Code 2015, ch. 72, sched. II; Ord. of 7-14-1993; Ord. of 8-14-1995; Ord. of 12-14-1998; Ord. of 7-7-2014)

Sec. 66-57. Speed limits.

The maximum speed limit upon unnamed streets of the town, which are a part of the state highway system of streets, shall be 35 mph.

<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>
Broome Street (N.C. 16)	From N.C. 75 northward to a point 0.30 mile north of S.R. 1008 (Howie Mine Road)	25 mph
	From North Main Street (S.R. 1301) northward for a distance of 0.15 mile	45 mph
Ethel Street	All	25 mph
Howie Mine Road (S.R. 1008)	From Broom Street (N.C. 16) eastward to the eastern corporation limits of the town	35 mph
King Street	From the 700 block until its intersection with Ethel Street	25 mph
McCain Street (S.R. 1110)	From N.C. 75 to Cemetery Street (S.R. 1110); thence along Cemetery Street (S.R. 1110) to the southern corporate limits line of the town	35 mph
Rehobeth Road (S.R. 1107)	From North Main Street (S.R. 1301) southward to the southern corporate limits line of the town	35 mph
Miller Drive	From its terminus at Blythe Mill Road to its terminus at North Providence Street	10 mph
N.C. 16	From a point 0.24 mile south of S.R. 1304 (Pine Oak Road) to S.R. 1307 (Bonds Grove Church Road)	45 mph
North Main Street (S.R. 1301)	From Rehobeth Road (S.R. 1107) to Hicks Street	35 mph
	From Hicks Street to Providence Street (S.R. 1302)	20 mph
Old Providence Road (S.R. 1111)	From N.C. 75 to the southeastern corporate limits line of the town	35 mph
Providence Street (S.R. 1109)	From South Main Street (N.C. 75) to McCain Street (S.R. 1110)	35 mph
Providence Street (S.R. 1302)	From North Main Street (S.R. 1301) northward to the northern corporation limits of the town	35 mph
Old Providence Road (S.R. 1111)	From a point 0.52 mile east of N.C. 75 eastward to a point 0.87 mile east of N.C. 75. (A 25 mph school zone in effect from 30 minutes before to 30 minutes after school begins and ends on school days only)	25 mph
South Main Street (N.C. 75)	From Broad Street to Providence Street (S.R. 1109)	20 mph
	From Providence Street (S.R. 1109) to a point 0.10 mile east of McCain Street (S.R. 1110)	35 mph
	From Rehobeth Road (S.R. 1107) to Broad Street	35 mph
Subdivision-wide	Anklin Forrest subdivision (consisting of Anklin Forrest, Berner, Lingen, Hoffmeister, Widgeon, Bitberg, Red Barone and Arnsberg)	25 mph
Subdivision-wide	S.R. 2536 from 0.1 mile south of S.R. 1304 northward to S.R. 1301	25 mph
Subdivision-wide	S.R. 2500 from 0.1 mile south of S.R. 1304 northward to S.R. 1304	25 mph
Subdivision-wide	S.R. 2551 from 0.37 mile south of S.R. 1304 northward to S.R. 1304	25 mph
Subdivision-wide	S.R. 2646 from 0.1 mile south of S.R. 1304 northward to S.R. 1304	25 mph
Subdivision-wide	S.R. 2677 from 0.2 mile south of S.R. 1008 northward to S.R. 1008	25 mph
Subdivision-wide	S.R. 2678 from S.R. 2677 northward to 0.1 mile north of S.R. 2677	25 mph
Subdivision-wide	S.R. 1469 from S.R. 1468 northward to 0.19 mile north of S.R. 1468	25 mph
Subdivision-wide	S.R. 1468 from S.R. 1301 northeastward to 0.42 mile northeast of S.R. 1301	25 mph
Sunset Hill Drive	From its terminus at NC Highway 16 to its terminus at Kensington Drive	25 mph

(Code 2015, ch. 72, sched. III; Ord. of 3-12-1990; Ord. of 10-12-1992; Ord. of 10-10-1994; Ord. of 5-10-1999; Ord. of 6-8-2004; Ord. of 3-10-2009; Ord. of 9-13-2011; Ord. No. 2016005, 3-8-2016; Ord. of 8-9-2016; Ord. No. 2017007, 9-26-2017)

Sec. 66-58. Through streets.

<i>Street</i>	<i>Prohibition</i>	<i>Ord. Passed</i>
Arbor Street	Through traffic prohibited entirely	11-13-2000

(Code 2015, ch. 72, sched. IV; Ord. of 11-13-2000)

Sec. 66-59. One-way streets.

<i>Street</i>	<i>Location</i>	<i>Ord. Passed</i>
Miller Drive	Approximately 982 feet from an unopened, unnamed right-of-way at the north to the centerline of North Providence Street at the south. (Miller Drive runs 1,213 linear feet from the centerline of Blythe Mill Road at the north to a terminus at the centerline of North Providence Street at the south. A two-way portion of Miller Drive runs approximately 231 feet from the centerline of Blythe Mill Road at the north to an unopened, unnamed right-of-way at the south.)	10-9-2000; 9-13-2011
Hicks Street		

(Code 2015, ch. 72, sched. V)

Sec. 66-60. Street obstructions and temporary road closures.

(a) No person shall obstruct any street, alley, public road or public square within the corporate limits of the town without the permission of the town and/or the state department of transportation for state roads.

- (1) The town manager may authorize obstructions for temporary public road closures not to exceed five consecutive days in accordance with terms and provisions required by town staff.
- (2) The Board of Commissioners may authorize obstructions for temporary public road closures in accordance with terms and provisions required by the Board of Commissioners.

(b) No person shall allow for any unsightly obstruction or rubbish to be placed, or allowed to accumulate, on or adjacent to any public street, sidewalk or railroad right-of-way.

(c) The violation of this section shall subject the violator to the civil penalties set forth in section 1-14.

(Prior Code, §§ 3-100, 3-101; Code 2015, ch. 72, sched. VI; Ord. No. 2016006, 4-26-2016)

Secs. 66-61—66-78. Reserved.

ARTICLE IV. ACCESS TO CURB CUTS

Sec. 66-79. Permission required to access and connect to public street.

It shall be unlawful for any person to create, enlarge, or expand the use of any driveway or connection to any public street for any development, redevelopment or change in use without the prior written approval of the town engineer or his designee.

(Code 2015, § 74.01; Ord. No. 2016002, exh. A, 1-12-2016)

Sec. 66-80. Regulation of connection and payment of costs.

The town engineer or designee must approve the size, location and manner of the connection to the public street and will use the TIA policy, NCDOT design standards and the NCDOT Policy on Street and Driveway Access to North Carolina Highways as guidance. The person seeking connection may be required to construct and dedicate medians, acceleration and deceleration lands,

and traffic storage lanes for driveway connections or other improvements reasonably attributable to the traffic using the connection.

(Code 2015, § 74.02; Ord. No. 2016002, exh. A, 1-12-2016)

Sec. 66-81. Traffic impact analysis/TIA policy.

The town engineer or designee may require a traffic impact analysis (TIA) in order to determine the appropriate improvements and regulations for access to a public street. The costs of such TIA shall be paid by the person seeking connection. The town engineer shall implement and maintain a TIA policy further describing thresholds, rules and regulations for TIA analysis. The TIA policy dated January 12, 2016, is approved and ratified. The town engineer is authorized to make amendments to the TIA policy provided that any major amendments shall be approved by the Board of Commissioners.

(Code 2015, § 74.03; Ord. No. 2016002, exh. A, 1-12-2016)

Sec. 66-82. Town engineer authority.

The town engineer is authorized and responsible for the enforcement of this article. The town engineer may implement and impose rules and regulations consistent with this article and the TIA policy.

(Code 2015, § 74.04; Ord. No. 2016002, exh. A, 1-12-2016)

Sec. 66-83. Penalties and remedies.

Any person violating any provision of this article shall be subject to any of the following:

- (1) Any enforcement set forth in section 1-14.
- (2) Any enforcement set forth in the town's unified development ordinance, which is adopted by reference in section 42-19.

- (3) Denial of a certificate of compliance, certificate of occupancy or other final approval required for use and occupation of any improvement.
- (4) Denial of access to the street which may include the town's placement of an obstruction or barricade along the public street.
- (5) Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this article.

(Code 2015, § 74.05; Ord. No. 2016002, exh. A, 1-12-2016)

Chapters 67—69

RESERVED

Chapter 70

TREES

(RESERVED)

Chapters 71—73

RESERVED

Chapter 74

VEHICLES FOR HIRE

Article I. In General

- Sec. 74-1. Definitions.
- Sec. 74-2. Compliance with chapter required.
- Sec. 74-3. Bond or insurance required.
- Sec. 74-4. Taxicab driver's license required; application; issuance.
- Sec. 74-5. License revocation.
- Secs. 74-6—74-28. Reserved.

Article II. Certificate of Convenience and Necessity

- Sec. 74-29. Required.
- Sec. 74-30. Application.
- Sec. 74-31. Application may be filed at any time.
- Sec. 74-32. Hearings.
- Sec. 74-33. Number of taxicabs to be operated.
- Sec. 74-34. Determination of convenience and necessity.
- Sec. 74-35. Burden of proof.
- Sec. 74-36. Powers of Board of Commissioners to grant or refuse.
- Sec. 74-37. Form.
- Sec. 74-38. Term; renewal.
- Sec. 74-39. Transfer.
- Sec. 74-40. Effect of failure to begin operations.
- Sec. 74-41. Revocation.
- Sec. 74-42. Notice of revocation hearing.
- Sec. 74-43. Substitution of vehicles.
- Secs. 74-44—74-74. Reserved.

Article III. Owner Responsibilities

- Sec. 74-75. Owner to keep information on file with the town.
- Sec. 74-76. Rates for services rendered.
- Sec. 74-77. Vehicle requirements.
- Sec. 74-78. Only one person to be transported; exception.
- Sec. 74-79. Report of accidents.

ARTICLE I. IN GENERAL**Sec. 74-1. Definitions.**

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

Certificate means the certificate of public convenience and necessity granted by the Board of Commissioners to engage in the taxicab business, as provided in this chapter.

Driver means any person in charge of or operating a taxicab.

Owner means any person having control of the operation or maintenance and collection of the revenue of taxicabs.

Street means any street, alley, avenue, land, public place or highway within the corporate limits of the town and outside of the corporate limits within one mile thereof at any point.

Taxicab means any motor vehicle seating nine or fewer passengers operated upon any street or highway on call or on demand, accepting or soliciting passengers indiscriminately for hire between the points along streets or highways as may be directed by the passenger so being transported and shall not include motor vehicles or motor vehicle carriers as defined in G.S. 62-259 through 62-261.

Within the limits of the town means all of the territory within the corporate limits of the town and within one mile of the corporate limits thereof at any point.

(Prior Code, § 38-100; Code 2015, § 111.01; Ord. of 4-12-1993)

Sec. 74-2. Compliance with chapter required.

It shall be unlawful for any person to engage in the business of operating a taxicab within the

limits of the town, to drive a taxicab within the limits of the town, unless the provisions of this chapter have been complied with.

(Prior Code, § 38-100; Code 2015, § 111.02; Ord. of 4-12-1993)

Sec. 74-3. Bond or insurance required.

(a) Every taxicab owner operating in the town shall file with the Board of Commissioners and keep in effect at all times policies of insurance with some company duly licensed by the insurance commissioner of the state to do business in the state, or provide a surety bond approved by the Board of Commissioners, with solvent surety, in the total amount or the penal sum specified herein, conditioned on the owner responding in damages for any liability incurred on account of any injury to persons or damage to property resulting from the operation of any taxicab operated by him in amounts as required by G.S. 20-280.

(b) Judgements rendered; insurance policies and cancellations.

(1) In the event that a judgment is rendered against any owner in any court of competent jurisdiction by reason of any accident for which the insurance policy or bond is herein provided, the owner shall, within 24 hours after the rendition of the judgment, increase the total amount of the insurance or the penal sum of the bond so that there shall be kept in effect, in the manner contemplated by law, insurance or bond upon which there has been no recovery of not less than the minimum provided herein.

(2) No taxicab shall be operated within the town unless the insurance policy or bond herein provided for is on file with the Board of Commissioners and is in full force and effect, and unless a certificate thereof identifying the vehicle by motor serial number

is carried in the cab and displayed upon demand of any police officer. Every bond filed hereunder shall contain a provision and every insurance policy filed hereunder shall contain a provision or have an endorsement that no cancellation thereof shall be effective until not less than five full days of 24 hours each have elapsed from the actual receipt of notice of the proposed cancellation by the Board of Commissioners.

- (3) The person to whom notice of cancellation is given as herein provided shall note thereon, in writing, the date and hour at which the notice of cancellation was received. If the taxicab owner who filed the bond or insurance policy as required by this section is still operating before the cancellation becomes effective, all taxicab operations by him in the town shall cease at the time the cancellation becomes effective, and his certificate of public convenience and necessity and other rights under this chapter shall be automatically suspended.

(Prior Code, § 38-100; Code 2015, § 111.03; Ord. of 4-12-1993)

Sec. 74-4. Taxicab driver's license required; application; issuance.

(a) Before any person shall drive a taxicab within the town, he shall make written application to the chief of police for a driver's license under this chapter, which application shall give the age, home address of the applicant, whether he is in sound physical condition, including good hearing and eyesight, whether or not he uses intoxicating liquors, drugs or narcotics, and whether or not he has ever been convicted of or has pleaded guilty or nolo contendere to the violation of any town, state, federal or other criminal law and; if so, the number of times and kind of offenses and other

information as the Board of Commissioners shall require, the person shall also appear in person at the police department and have his fingerprints taken, which fingerprints shall constitute a part of his application.

(b) The chief of police is hereby charged with the duty of investigation if he deems it necessary. If the applicant meets his approval, he shall order the issuance to the applicant of a license card which shall bear a number, shall contain the name, home address, business address, employer and photograph of the driver and the driver shall have the license with him at all times and displayed in a prominent place in the taxicab at all times when he is engaged in operating or is in charge of a taxicab within the town, and it shall be the duty of the driver to expose the license upon the request of any person, at any time.

(Prior Code, § 38-100; Code 2015, § 111.04; Ord. of 4-12-1993)

Sec. 74-5. License revocation.

(a) The license of any driver shall become void and shall be surrendered by him, upon his conviction, or plea of guilty or nolo contendere, in any court in this state or any other state on a charge of any offense involving moral turpitude.

(b) The Board of Commissioners shall have the authority, after the hearing as it shall prescribe, upon not less than five days' notice, to revoke the license of any driver under this chapter for any of the following causes:

- (1) Repeated violation of traffic and safety laws and ordinances, and other ordinances relating to the operation of taxicabs within the limits of the town, whether convicted thereof or charged therewith in any criminal court;
- (2) Failure to report any accident in which the driver is involved, however slight;

- (3) Operation of a taxicab known to the driver not to be in good order and repair;
 - (4) Dangerous and reckless driving by the drivers at any time while engaged in the operation of a taxicab within the limits of the town under the circumstances as in the opinion of the Board of Commissioners shall constitute reckless and indifferent disregard of the rules of traffic and the safety of passengers in the taxicab or of persons or property within the limits of the town; or
 - (5) Overcharging the rates prescribed by this chapter.
- (Prior Code, § 38-100; Code 2015, § 111.05; Ord. of 4-12-1993)

Secs. 74-6—74-28. Reserved.

ARTICLE II. CERTIFICATE OF CONVENIENCE AND NECESSITY

Sec. 74-29. Required.

No person shall operate within the limits of the town any taxicab unless a certificate of public convenience and necessity for the operation of the taxicab as herein provided for has been issued and is in effect.

(Prior Code, § 38-100; Code 2015, § 111.20; Ord. of 4-12-1993)

Sec. 74-30. Application.

Every person or owner desiring to operate a taxicab within the limits of the town shall file an application for a certificate of convenience and necessity, and shall furnish the following information:

- (1) The name and address of the proposed owner. If the proposed operation is to be financed wholly or partly by means of borrowed money or capital in any form

furnished by any person other than the owner, the name and address of the person lending the money or furnishing the capital shall be disclosed on the application;

- (2) Evidence of the financial ability and responsibility of the applicant;
 - (3) The number and kind of vehicles, and the character and location of the depots and terminals to be used;
 - (4) The experience of the applicant in the transportation of passengers for hire;
 - (5) Any facts upon which the applicant believes public convenience and necessity require the granting of his application; and
 - (6) Any other information requested by the Board of Commissioners.
- (Prior Code, § 38-100; Code 2015, § 111.21; Ord. of 4-12-1993)

Sec. 74-31. Application may be filed at any time.

Application for a certificate may be filed at any time with the town clerk.

(Prior Code, § 38-100; Code 2015, § 111.22; Ord. of 4-12-1993)

Sec. 74-32. Hearings.

Upon request, the town shall conduct a hearing for the purpose of determining the number of taxicabs for which certificates shall be issued. The hearing shall be public, after notice has been given by mail to all holders of certificates and applicants for certificates at the addresses shown on their certificates of application as the case may be, and by publication of the notice in a newspaper of general circulation in the town published at least once and not less than ten days prior to the hearing. A special hearing upon any application may be held at any time by order of the Board of Commissioners upon like notice. Any hearing may

be continued to a fixed time or from time to time without further notice, but announcement thereof shall be made at the time and place fixed for the hearing to be continued.

(Prior Code, § 38-100; Code 2015, § 111.23; Ord. of 4-12-1993; Ord. of 1-10-2000)

Sec. 74-33. Number of taxicabs to be operated.

At the meeting prescribed above, the Board of Commissioners shall determine the total number of taxicabs the public convenience and necessity require for the town. If the Board of Commissioners shall determine that certificates are already outstanding in excess of the number required, it shall order that number reduced and the reduction shall be distributed pro rata, as nearly as practicable, between the holders of certificates then outstanding. If the Board of Commissioners determines that the public convenience and necessity requires that certificates be issued for an additional number of taxicabs, the Board of Commissioners shall have the power to grant certificates for the increase to any new applicant, to existing owners or to one or more new applicants or one or more existing owners, or both as, in its opinion, the public convenience and necessity, the public safety and the public welfare shall require.

(Prior Code, § 38-100; Code 2015, § 111.24; Ord. of 4-12-1993)

Sec. 74-34. Determination of convenience and necessity.

The Board of Commissioners shall determine whether the public convenience and necessity require the operation of the taxicabs for which the application has been filed, and in determining whether the public convenience and necessity require the franchising of the taxicab, the Board of Commissioners shall, among other things, take into consideration the following factors:

- (1) The adequacy of existing taxicab service and other forms of transportation for passengers already in existence;

- (2) The probable permanence, satisfaction and quality of the services offered by the applicant;
- (3) The financial ability, character and responsibility of the applicant;
- (4) The number, condition and kind of vehicles, and the character and location of the depots and terminal to be used;
- (5) The experience of the applicant in the transportation of passengers for hire in automobiles;
- (6) The number of taxicabs now operated and the demand for increased service, if any, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved, and whether or not adequate provision has been made for off-street parking of the taxicab; and
- (7) Other relative facts as may be deemed necessary and advisable.

(Prior Code, § 38-100; Code 2015, § 111.25; Ord. of 4-12-1993)

Sec. 74-35. Burden of proof.

The burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicabs designated in his application and all other facts required for granting the application.

(Prior Code, § 38-100; Code 2015, § 111.26; Ord. of 4-12-1993)

Sec. 74-36. Powers of Board of Commissioners to grant or refuse.

The Board of Commissioners shall have the authority to grant a certificate as applied for, or to grant a certificate to the applicant for a lesser number of vehicles than specified in the application, or to deny the application, in the exercise of sound discretion after a consideration of the fac-

tors prescribed herein. The Board of Commissioners may attach to the exercise of the right granted by the certificate the terms and conditions as, in its judgment, the public convenience and necessity may require. If an application is denied, the applicant must file a new application in order to be considered for the next calendar year.

(Prior Code, § 38-100; Code 2015, § 111.27; Ord. of 4-12-1993)

Sec. 74-37. Form.

The form of a certificate of public convenience and necessity issued under this chapter shall be prescribed by the town clerk and shall contain the name and address of the owner, the number, kind and description of the vehicles, the operation of which is authorized by the certificate, and the special limitations prescribed by the Board of Commissioners in granting the certificate, and the certificate shall state that it is issued subject to the provisions of this chapter and all other laws and ordinances governing the operation of taxicabs within the town.

(Prior Code, § 38-100; Code 2015, § 111.28; Ord. of 4-12-1993)

Sec. 74-38. Term; renewal.

A certificate shall constitute a franchise from the town for the operation of taxicabs within the limits of the town, subject to the provisions of this chapter, as it is in effect or thereafter amended until 12:00 midnight on June 30 next following the date of issue. Application for renewal shall be filed annually prior to April 1 and hearing shall be held on the application as herein provided.

(Prior Code, § 38-100; Code 2015, § 111.29; Ord. of 4-12-1993; Ord. of 1-10-2000)

Sec. 74-39. Transfer.

A certificate is not transferable without the consent of the Board of Commissioners. Applications for a permit to transfer shall be filed in the

same manner as an application for a certificate of convenience and necessity. The proceedings upon the application for a transfer shall be the same as those described for the issuance of a certificate; except that the question of public convenience and necessity need not be proven.

(Prior Code, § 38-100; Code 2015, § 111.30; Ord. of 4-12-1993)

Sec. 74-40. Effect of failure to begin operations.

If a certificate is granted to an applicant who shall fail, in accordance with the provisions of the certificate and this chapter, to begin operations within 60 days after the date of the certificate, the certificate shall become null and void.

(Prior Code, § 38-100; Code 2015, § 111.31; Ord. of 4-12-1993)

Sec. 74-41. Revocation.

The Board of Commissioners may at any time, after a public hearing, revoke any certificate issued by authority of this chapter for any one or more of the following causes:

- (1) Failure to operate the taxicabs specified in the certificate, or other taxicabs substituted therefor, in a manner as to serve the public adequately and efficiently;
- (2) Failure to maintain taxicabs in good order and repair;
- (3) Failure to maintain insurance as required by this chapter;
- (4) Failure to pay the town taxes or license fees imposed upon the taxicabs;
- (5) Repeated and persistent violation of traffic and safety ordinances by drivers or of state laws pertaining to traffic, safety, alcoholic beverages or prostitution;
- (6) Failure to report any accident, as herein required, however slight; and/or

(7) Failure to comply with the provisions of this chapter or other ordinances or state laws relating to the operation of taxicabs. (Prior Code, § 38-100; Code 2015, § 111.32; Ord. of 4-12-1993)

Sec. 74-42. Notice of revocation hearing.

No certificate shall be revoked until the owner has had at least five days' notice by personal service or registered mail of the charges against him, and of the time and place of the hearing. If, after the hearing, it is found that the owner is guilty of one or more of the offenses listed herein, the Board of Commissioners shall have the power to revoke the certificate, or to condition a revocation upon compliance with its order within any time fixed by it. (Prior Code, § 38-100; Code 2015, § 111.33; Ord. of 4-12-1993)

Sec. 74-43. Substitution of vehicles.

(a) The person to whom a certificate has been issued may, by appropriate endorsement thereon by the town clerk, substitute another vehicle for the vehicle for which the certificate was granted.

(b) In such instance, the liability insurance or bonds shall also be transferred to the substitute vehicle. (Prior Code, § 38-100; Code 2015, § 111.34; Ord. of 4-12-1993)

Secs. 74-44—74-74. Reserved.

ARTICLE III. OWNER RESPONSIBILITIES

Sec. 74-75. Owner to keep information on file with the town.

(a) Every owner shall keep a description of equipment at all times on file with the Board of Commissioners, showing the make, model, passenger capacity, date of acquisition, from whom ac-

quired, the motor number and serial number and the state and town license number of each taxicab for which he holds a certificate.

(b) No equipment shall be substituted for that described in the certificate until it has been inspected by the police department and approved, and the substitution or addition of the equipment has been endorsed on the operator's certificate issued under this chapter. (Prior Code, § 38-100; Code 2015, § 111.50; Ord. of 4-12-1993)

Sec. 74-76. Rates for services rendered.

Rates for services rendered by taxicabs licensed to do business within the town shall be as set out in separate rate schedules to be adopted from time to time by the Board of Commissioners. (Prior Code, § 38-100; Code 2015, § 111.51; Ord. of 4-12-1993)

Sec. 74-77. Vehicle requirements.

Every taxicab operated within the limits of the town and for which a certificate is issued under this chapter shall comply with the following requirements:

- (1) It shall be enclosed, or sedan type, with four doors, at least two seats and of not less than five-passenger capacity.
- (2) It shall be at all times in good repair when in operation and shall be subject to inspection by the police department at any time.
- (3) It shall bear on the outside and on at least two sides the name of the owner in letters not less than two inches high and plainly visible at a distance of 100 feet.
- (4) The name and address of the operator, the license of the driver and the rates and fares in effect shall be kept posted inside of the taxicab at all times when it is in operation and shall be exhibited to any person

demanding it. The rates and fares in effect shall be posted in letters not less than one-half inch high.

- (5) No driver shall operate a handheld mobile telephone or radio in any taxicab while the same is being used to transport passengers for hire in the town, provided that this subsection shall not prohibit the use in any taxicab operating under the provisions of this chapter of a radio device for the purpose of receiving instructions for the carrying of passengers directed through the radio device from the office or headquarters of the person or company under whom the taxicab is being operated.
- (6) Every taxicab shall have affixed thereto and must use a taximeter which conforms substantially to the following specifications:
- a. A taximeter is a mechanical instrument or device by which the charge for hire of a taxicab is mechanically calculated either for distance traveled or for waiting time or both and upon which the charge shall be indicated by means of legible figures which are electrically lighted each time the taximeter flag is thrown from non-earning to earning position.
 - b. The taximeters must register upon visual counters the following items:
 1. Total miles;
 2. Paid miles;
 3. Number of units;
 4. Number of trips; and
 5. Number of extras.
 - c. Each taximeter must be driven direct from the taxicab transmission (instead of merely connecting with the speedometer driving shaft) to the taximeter head itself, using a flexible shaft and a flexible housing so connected and sealed as to be non-tamperable.
 - d. No person shall use or permit to be used upon any taxicab a taximeter which shall be in a condition as to be over five percent incorrect to the prejudice of any passenger.
 - e. No person shall use or permit to be used or driven for hire a taxicab equipped with a taximeter the case of which is unsealed and not having its cover and gear intact.
 - f. If demanded by the passenger, the driver in charge of a taxicab shall deliver to the person paying for the hiring of the same at the time of the payment a receipt therefor in legible type or writing containing the name of the owner, the license number of the driver's license or the taximeter number, and any items for which a charge is made, the total amount paid and the day of payment.
 - g. No person shall drive a taxicab to which is attached a taximeter that has not been duly inspected and approved. It shall be unlawful to change the size of the wheels or tires of a taxicab or the gears operating the taximeter or to change a taximeter from one taxicab to another unless the taximeter is retested and approved before using.
- (7) The chief of police shall have the right to inspect, check and ascertain the accuracy of any meter placed on any taxicab operating under the franchise granted by the Board of Commissioners.

(Prior Code, § 38-100; Code 2015, § 111.52; Ord. of 4-12-1993)

Sec. 74-78. Only one person to be transported; exception.

Not more than one person shall be transported in any taxicab at one time except by the consent of the person first engaging the taxicab.

(Prior Code, § 38-100; Code 2015, § 111.53; Ord. of 4-12-1993)

Sec. 74-79. Report of accidents.

The owner shall report not less than weekly, to the chief of police in writing, every accident or collision of any character, however slight, in which any taxicab which he operates has been in any way involved, but the report shall not be used against the owner or driver making it in any criminal proceeding.

(Prior Code, § 38-100; Code 2015, § 111.54; Ord. of 4-12-1993)

Appendix A

TABLE OF SPECIAL ORDINANCES

TABLE I: ANNEXATIONS; BOUNDARY EXTENSIONS

<i>Ord. #</i>	<i>Parcel #</i>	<i>Annex (A) or Deannex (D)</i>	<i>Ord. Date</i>	<i>Acres</i>
18-99	0	A	5/17/1973	<1
18-100	0	A	5/3/1973	9.68
18-100A	0	A	5/3/1973	45.09
18-101	0	A	8/26/1976	<1
18-102	0	A	2/14/1977	35.17
18-102A	0	A	2/28/1977	8.01
18-103	0	A	7/2/1986	46.91
18-104	0	A	10/6/1987	41.576
18-105	05116016A	A	12/1/1987	1.44
18-106	0	A	6/27/1988	16
18-107	0	A	7/24/1989	3.89
18-108	06141004	A	6/14/1999	41.8
18-109	0	A	5/21/1990	<1
18-110	0	A	5/21/1990	<1
18-111	0	A	5/21/1990	<1
18-112	0	A	10/8/1973	22.23
18-113	0	A	2/27/1997	64.092
18-114	0	A	6/24/1996	<1
18-115	0	A	6/24/1996	<1
18-116	0	A	6/24/1996	<1
18-117	0	A	7/8/1996	33.032
18-118	0	A	7/29/1997	2.08
18-119	0	A	4/27/1998	<1
18-120	0	A	7/13/1998	60.32
18-121	0	A	9/14/1998	17.012
18-122	06162022, 06162025	A	5/10/1999	26.153
18-123	06138007	A	8/9/1999	68.992
18-124	0	A	10/11/1999	<1
18-125	06192007	A	12/10/2001	163.15
18-126	06165003B	A	1/10/2000	6.51
18-127	05114028	A	6/10/2002	9.58
18-128	06162009	A	6/10/2002	14.476
18-129	06162009, 06162004, 06162002	A	8/12/2002	168.18
18-130	06162001, 06162005	A	8/12/2002	168
18-131	06162009	A	9/9/2002	52.353
18-132	06162010, 06189004, 06159004, 061890040, 06162012, 06162013, 06189004E, 06162011, 06189004A	A	8/12/2002	278.96
18-133	06189005, 06189005A, 06189026	A	11/11/2002	30.17
18-134	06189005	A	11/11/2002	1
18-135	06189005E	A	11/11/2002	2.53
18-136	06141012	A	11/11/2002	36.96

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<i>Ord. #</i>	<i>Parcel #</i>	<i>Annex (A) or Deannex (D)</i>	<i>Ord. Date</i>	<i>Acres</i>
18-137	06114001	A	11/11/2002	95.914
18-138	06114003	A	11/11/2002	161.84
18-139	06159007, 06159007A, 06159007B	A	12/9/2002	21.05
18-140	06189003C	A	12/9/2002	23.57
18-141	06185018	A	12/9/2002	69.16
18-142	05087083, 05087084	A	1/13/2003	11.01
18-143	05087083, 05087084	A	2/10/2003	1.574
18-144	05087083, 05087084	A	2/10/2003	5.76
18-145	06159002	A	2/10/2003	34.797
18-146	06111009	A	2/10/2003	44.5
18-147	05138005	A	5/28/2003	20.65
18-148	05138004	A	7/14/2003	86.595
18-149	06168001	A	5/28/2003	66.029
18-150	05165002	A	5/28/2003	5.68
18-151	05165004	A	5/28/2003	11.58
18-152	05165003	A	5/28/2003	11.79
18-153	05165006, 05165005	A	5/28/2003	17.69
18-154	05168015, 05165001	A	5/28/2003	47.43
18-155	05168019	A	5/28/2003	61
18-156	06192001	A	5/28/2003	174.4
18-157	06168042	A	7/14/2003	1.093
18-158	06135003, 06108001A, 06135003A, 06108001	A	6/26/2003	558.17
18-159	06159008A	A	9/8/2003	<1
18-160	06159008G	A	9/8/2003	5.83
18-161	06159008F	A	9/8/2003	11.11
18-162	06159008E	A	9/8/2003	4.35
18-163	06159008D	A	9/8/2003	1.03
18-163A	06159008C	A	9/8/2003	0.9
18-164	06159009	A	9/8/2003	38
18-165	06159006	A	9/8/2003	46.55
18-166	06162006	A	9/8/2003	2.53
18-167	06159003B	A	10/13/2003	0.67
18-168	06165003A	A	10/13/2003	213.38
18-169	06192003	A	11/10/2003	66.57
18-170	05087021	A	11/10/2003	0.425
18-171	05060003	A	11/10/2003	311.26
18-172	05036012	A	11/10/2003	84.396
18-173	05036014, 05033188	A	11/10/2003	872.67
18-174	06162025B	A	12/8/2003	1.02
18-175	06111002, 06111003	A	6/8/2004	101.87
18-176	06162018	A	1/13/2004	8.966
18-177	06159008, 06159001A	A	4/13/2004	3.71

APPENDIX A—TABLE OF SPECIAL ORDINANCES

App. A, Table I

<i>Ord. #</i>	<i>Parcel #</i>	<i>Annex (A) or Deannex (D)</i>	<i>Ord. Date</i>	<i>Acres</i>
18-178	06189003D	A	5/11/2004	41.43
18-179	06189003A	A	9/14/2004	4.99
18-180	05084003	A	10/12/2004	11.287
18-181	06114002	A	10/12/2004	89
18-182	05168016	A	11/11/2004	2.375
18-183	05168018	A	11/11/2004	20.66
18-184	05090003	A	1/11/2005	61.264
18-185	06192005	A	2/8/2005	14.98
18-186	06162021	A	3/8/2005	22.88
18-187	06162025A	A	5/10/2005	1
18-188	06162023	A	6/14/2005	10.03
18-189	05117014, 05117012, 05117013	A	7/12/2005	259.43
18-190	06192010	A	10/11/2005	11.71
18-191	06165006	A	7/11/2006	85.02
18-192	05114240	A	4/11/2006	5.01
18-193	06108011	A	7/11/2006	57.75
18-194	06108006	A	7/11/2006	1
18-195	06108005	A	7/11/2006	3.5
18-196	06078002	A	7/11/2006	137.15
18-197	06162002	A	5/15/2007	5.6
18-198	06081017D	A	7/11/2006	21.998
18-200	5144005	A	9/13/2007	27.08
18-201	05063030A	A	9/11/2007	121.35
18-202	06159008E, 06159002A, 06159008B	A	4/29/2008	4.2
18-203	06159008A	A	4/29/2008	1.44
18-204	06159005, 06159005A, 06159006A	A	4/29/2008	4.4
18-205	06162007	A	4/29/2008	0.72

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<i>Ord. #</i>	<i>Parcel #</i>	<i>Annex (A) or Deannex (D)</i>	<i>Ord. Date</i>	<i>Acres</i>
18-206	05138001, 05138002, 05138003, 05138041, 06165115, 06165116, 06165117, 06165118, 06165119, 06165120, 06165121, 06165122, 06165123, 06165124, 06165125, 06165126, 06165127, 06165128, 06165129, 06165130, 06165131, 06165132, 06165133, 06165134, 06165135, 06165136, 06165137, 06165138, 06165139, 06165140, 06165141, 06165142, 06165143, 06168003, 06168004, 06168005, 06168006, 06168008, 06168009, 06168010, 06168011, 06168013, 06168014, 06168015, 061680136, 06168019, 06168020, 06168021, 06168022, 06168023, 06168024, 06168025, 06168026, 06168027, 06168028, 06168029, 06168030, 06168031, 06168032, 06168033, 06168034, 06168035, 06168036, 06168037, 06168038, 06168039, 06168040, 06168041, 06168043, 06168044, 06168045, 06168046, 06168047, 06168048, 06168049, 06168050, 06168051, 06168052, 06168053, 06168054, 06168055, 06168056, 06168057, 06168059, 06168060, 06168061, 05138002A, 05138002B, 05138003A, 05138003B, 05138041A, 06165001D, 06165003E, 06165003F, 06168006A, 06168008A, 06168015A, 06168015B, 06168015C, 06168015D, 06168019A, 06168019B, 06168022A, 06168023A, 06168026A, 06168026B, 06168028A, 06168029A, 06168032A, 06168036A, 06168036B, 06168038A, 06168038B, 06168045A, 06168049A, 06168061A, 06168061B, 06165005	A	4/29/2008	136.7
18-207	05112038, 05112049, 05112077, 06141016, 05112038A, 05112038B, 05112049B, 05112077A	A	4/29/2008	9.5
18-208	05084009, 05084012, 05084013, 05110085, 05110086, 05110087, 05110103, 05110104, 05110105, 05110106, 05110063A, 05110105A, 05110105B, 05110064	A	4/29/2008	14.3
18-209	06192003C	A	8/23/2011	33.676
18-210	6186020	A	3/26/2013	23.58
18-211	06192005B, 06192005D	A	4/23/2013	34.66
18-212	6162001	A	2/10/2015	18.5
18-213	05138010, 05138011, 05138101, 05138102, 05138103, 05138104, 05138105	A	1/26/2016	57.43
18-214	06165001, 06165001C	A	5/10/2016	15.531
18-215	6162001	A	7/12/2016	3.523
18-216	06192759, 06192760, 06192761, 06192762, 06192763, 06192764, 06192765, 06192766, 06192767, 06192768, 06192769, 06192770, 06192771, 06192772, 06192773, 06192774, 06192775, 06192776, 06192777 and 06192778	A	7/12/2016	21.4195
18-217	6192008	A	8/23/2016	25.248
18-218	6162014	A	11/21/2016	10
18-219	06192005, 06192005C, 06192005A, 06192004, 06192746, 06192747, 06192748, 06192749, 06192750, 06192751, 06192752, 06192753, 06192754, 06192755, 06192756, 06192757, 06192758	A	12/6/2016	43.45
18-220	06192003E	A	1/24/2017	1.38

TABLE II: FRANCHISE AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	11-4-1987	Franchise agreement between town and company
-	8-14-1997	Franchise agreement between town and company
R. -	6-11-2001	Franchise agreement between town and company

TABLE III: HISTORIC PROPERTY DESIGNATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	10-6-1987	A.W. Heath Commercial Complex
-	10-6-1987	R.J. Belk Store
-	8-11-1997	Waxhaw Railroad Bridge
2017002	6-13-2017	Waxhaw Water Tank

CODE COMPARATIVE TABLE

PRIOR CODE

This table gives the location within this Code of those sections of the Prior Code which are included herein. Sections of the Prior Code not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

Prior Code Section	Section this Code	Prior Code Section	Section this Code
1-100	46-4	—	74-75—74-79
—	46-7	39-100	2-51
2-100	46-7	40-100	2-19
3-100	66-60	41-100	54-21—54-31
3-101	66-60	42-100	1-14
3-102	66-56	44-100	6-24
3-103	46-6, 46-7	—	46-3
3-104	46-7	—	46-7
3-109	10-3	47-100	46-2
3-110	34-2	—	46-7
—	34-5	50-100	34-1
3-111	10-4	51-100	14-140—14-144
4-100	66-22	53-101	14-19
6-102	66-19	53-102	14-20
—	66-22	53-103	14-21
6-104	66-51	53-104	14-22
—	66-54	53-105	14-23
6-105	66-52	53-106	14-24
—	66-54	53-107	14-25
10-101	10-30	53-108	14-26
—	10-33—10-37	53-109	14-27
10-102	10-5	53-110	14-58—14-66
10-103	46-1	100-52	2-52
—	46-7		
10-104	54-1		
—	54-32		
11-100	66-20		
—	66-22		
12-100	46-5		
—	46-7		
13-100	66-49		
—	66-54		
15-100	50-1—50-17		
17-100	34-5		
20-101	34-3		
31-100	62-19—62-30		
34-100	2-20		
—	46-4		
38-100	74-1—74-5		
—	74-29—74-43		

CODE COMPARATIVE TABLE

2015 CODE

This table gives the location within this Code of those sections of the 2015 Code, as supplemented through May 15, 2017, which are included herein. Sections of the 2015 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

2015 Code Section	Section this Code	2015 Code Section	Section this Code
10.01	1-2	71.01	66-19
10.04	1-3	71.02	66-20
10.05	1-1	71.03	66-21
10.07	1-4	71.99	66-22
10.10	1-5	ch. 72, sched. I	66-55
10.11	1-6	ch. 72, sched. II	66-56
10.12	1-7	ch. 72, sched. III	66-57
10.13	1-8	ch. 72, sched. IV	66-58
10.14	1-9	ch. 72, sched. V	66-59
10.15	1-10	ch. 72, sched. VI	66-60
10.16	1-11	ch. 73, sched. I	66-23
10.17	1-12	74.01	66-79
10.19	1-13	74.02	66-80
10.99	1-14	74.03	66-81
30.01	2-19	74.04	66-82
30.02	2-20	74.05	66-83
30.03	2-21	90.01	10-1
30.04	2-22	90.02	10-2
30.05	2-23	90.03	10-3
31.01	2-50	90.04	10-4
31.03	2-51	90.05	10-5
32.01	2-76	90.19	10-29
33.01	30-1	90.20	10-30
33.02	30-2	90.21	10-31
33.03	30-3	90.22	10-32
33.04	30-4	90.23	10-33
33.05	30-5	90.24	10-34
33.06	30-6	—	10-36
33.07	30-7	90.25	10-35
33.08	30-8	—	10-38
70.01	66-48	90.26	10-39
70.02	66-49	90.27	10-37
70.03	66-50	—	10-40
70.04	66-51	90.28	10-41
70.05	66-52	90.29	10-42
70.06	66-53	90.99	10-43
70.99	66-54	91.01	34-1

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2015 Code Section	Section this Code	2015 Code Section	Section this Code
91.02	34-2	111.04	74-4
91.03	34-3	111.05	74-5
91.04	34-4	111.20	74-29
91.99	34-5	111.21	74-30
92.01	62-19	111.22	74-31
92.02	62-20	111.23	74-32
92.03	62-21	111.24	74-33
92.04	62-22	111.25	74-34
92.05	62-23	111.26	74-35
92.07	62-24	111.27	74-36
92.08	62-25	111.28	74-37
92.10	62-26	111.29	74-38
92.11	62-27	111.30	74-39
92.12	62-28	111.31	74-40
92.13	62-29	111.32	74-41
92.14	62-30	111.33	74-42
93.01	54-1	111.34	74-43
93.15	54-22	111.50	74-75
93.16	54-23	111.51	74-76
93.17	54-21	111.52	74-77
93.18	54-24	111.53	74-78
93.19	54-25	111.54	74-79
93.20	54-26	130.01	46-1
93.21	54-27	130.02	46-2
93.22	54-28	130.03	6-24
93.24	54-29	—	46-3
93.25	54-30	130.04	46-4
93.26	54-31	130.05	46-5
93.45	22-1	130.07	46-6
93.99	54-32	130.99	46-7
95.01	50-2	150.01	14-19
95.02	50-1	150.02	14-20
95.03	50-3	150.03	14-21
95.04	50-4	150.04	14-22
95.05	50-5	150.05	14-23
95.06	50-6	150.06	14-24
95.07	50-7	150.07	14-25
95.08	50-8	150.08	14-26
95.09	50-9	150.09	14-27
95.10	50-10	150.20	14-58
95.11	50-11	150.21	14-59
95.12	50-12	150.22	14-60
95.13	50-13	150.23	14-61
95.14	50-14	150.24	14-62
95.15	50-15	150.25	14-63
95.16	50-16	150.26	14-64
95.17	50-17	150.27	14-65
111.01	74-1	150.28	14-66
111.02	74-2	151.01	14-109
111.03	74-3	151.02	14-110

CODE COMPARATIVE TABLE

2015 Code Section	Section this Code	2015 Code Section	Section this Code
151.03	14-111	159.17	58-59
151.04	14-112	159.18	58-60
151.99	14-113	159.19	58-61
152.01	14-140	159.20	58-62
152.02	14-141	159.21	58-63
152.03	14-142	159.22	58-64
152.04	14-143		
152.99	14-144		
153.01	38-2		
153.02	38-3		
153.03	38-4		
153.04	38-1		
153.05	38-5		
153.20	38-29		
153.21	38-30		
153.22	38-31		
153.23	38-32		
153.24	38-33		
153.25	38-34		
153.26	38-35		
153.27	38-36		
153.28	38-37		
153.40	38-63		
153.41	38-64		
153.42	38-65		
153.43	38-66		
153.44	38-67		
153.99	38-68		
154.01	42-19		
155.01	42-42		
156.01	42-73		
157.01	58-19		
158.01	42-105		
ch. 159, preamble	58-43		
159.01	58-44		
159.02	58-45		
159.03	58-42		
159.04	58-46		
159.05	58-47		
159.06	58-48		
159.07	58-49		
159.08	58-50		
159.09	58-51		
159.10	58-52		
159.11	58-53		
159.12	58-54		
159.13	58-55		
159.14	58-56		
159.15	58-57		
159.16	58-58		

CODE COMPARATIVE TABLE

LEGISLATION

This table gives the location within this Code of those ordinances which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

Legislation	Date	Section	Section this Code
Ord. of 3-29-1955	3-29-1955	—	66-19
Ord. No. 1966002	5-19-1966	—	22-1
Ord. of 1975	1975	—	66-22
Ord. of 1-27-1975	1-27-1975	—	50-1—50-17
Ord. of 12-1-1975	12-1-1975	—	66-19
Ord. of 3-8-1976	3-8-1976	—	66-23
Ord. of 3-13-1978	3-13-1978	—	34-3
Ord. of 2-5-1980	2-5-1980	—	10-30
Ord. of 4-1-1980	4-1-1980	—	66-50
		—	66-54
Ord. of 11-4-1986	11-4-1986	—	34-4
Ord. of 4-7-1987	4-7-1987	—	10-5
		—	10-43
Ord. of 2-22-1988	2-22-1988	—	62-19—62-30
Ord. of 3-28-1988	3-28-1988	—	38-1—38-5
		—	38-29—38-37
		—	38-63—38-67
Ord. of 6-2-1988	6-2-1988	—	10-29
		—	10-34—10-37
		—	10-43
Ord. of 10-24-1988	10-24-1988	—	34-3
Ord. of 12-29-1988	12-29-1988	—	34-3
Ord. of 2-15-1990	2-15-1990	—	2-20
Ord. of 3-12-1990	3-12-1990	—	62-19—62-22
		—	62-24, 62-25
		—	66-57
Ord. of 4-12-1990	4-12-1990	—	38-1—38-5
		—	38-29—38-37
		—	38-63—38-68
Ord. of 8-13-1990	8-13-1990	—	66-23
Ord. of 10-12-1992	10-12-1992	—	66-57
Ord. of 12-14-1992	12-14-1992	—	66-21—66-23
Ord. of 4-12-1993	4-12-1993	—	74-1—74-5
		—	74-29—74-43
		—	74-75—74-79
Ord. of 6-14-1993	6-14-1993	—	34-3
Ord. of 7-14-1993	7-14-1993	—	66-56
Ord. of 9-13-1993	9-13-1993	—	2-51
Ord. of 1-10-1994	1-10-1994	—	34-3
Ord. of 2-17-1994	2-17-1994	—	10-3
		—	10-42, 10-43

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Legislation	Date	Section	Section this Code
Ord. of 10-10-1994	10-10-1994	—	50-1—50-17
		—	66-57
Ord. of 3-13-1995	3-13-1995	—	1-14
		—	66-21, 66-22
Ord. of 8-14-1995	8-14-1995	—	66-56
Ord. of 11-13-1995	11-13-1995	—	6-24
		—	46-3, 46-4
		—	46-7
Ord. of 1-13-1997	1-13-1997	—	50-1—50-17
Ord. of 11-10-1997	11-10-1997	—	46-2
		—	46-7
Ord. of 11-9-1998	11-9-1998	—	34-5
Ord. of 11-10-1998	11-10-1998	—	46-5
Ord. of 12-14-1998	12-14-1998	—	66-56
Ord. of 5-10-1999	5-10-1999	—	66-57
Ord. of 1-10-2000	1-10-2000	—	66-48
		—	66-54
		—	74-32
		—	74-38
Ord. of 10-9-2000	10-9-2000	—	66-51
		—	66-54
Ord. of 11-13-2000	11-13-2000	—	66-52
		—	66-54
		—	66-58
Ord. of 2001	2001	—	66-22
Ord. of 5-14-2001	5-14-2001	—	54-21—54-31
Ord. of 7-16-2001	7-16-2001	—	66-19
Ord. of 9-10-2001	9-10-2001	—	34-3
Ord. No. 2003001	8-11-2003	—	22-1
Ord. of 4-13-2004	4-13-2004	—	2-19
Ord. of 6-8-2004	6-8-2004	—	10-33
		—	10-43
		—	46-1
		—	46-7
		—	66-57
Ord. of 7-13-2004	7-13-2004	—	2-20
Ord. of 8-10-2004	8-10-2004	—	2-20
		—	34-3
Ord. of 12-13-2005	12-13-2005	—	2-20
Ord. of 9-5-2006	9-5-2006	—	14-109—14-113
Ord. of 10-10-2006	10-10-2006	—	54-1
		—	54-32
Ord. of 4-10-2007	4-10-2007	—	54-21
		—	54-23—54-30
Res. of 6-12-2007	6-12-2007	—	2-50
Ord. of 7-1-2007	7-1-2007	—	34-1
		—	34-5
Ord. of 9-13-2007	9-13-2007	—	54-1
		—	54-32
Ord. of 11-13-2007	11-13-2007	—	14-140—14-144

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Legislation	Date	Section	Section this Code
Ord. of 12-11-2007	12-11-2007	—	14-19—14-27
		—	14-58—14-66
Ord. of 9-9-2008	9-9-2008	—	54-1
		—	54-32
Ord. of 3-10-2009	3-10-2009	—	66-57
Ord. of 9-8-2009	9-8-2009	—	10-2
Ord. of 2-9-2010	2-9-2010	—	10-29
Ord. of 4-27-2010	4-27-2010	—	34-1
		—	34-4
Ord. of 7-27-2010	7-27-2010	—	6-24
		—	10-38
		—	46-3
Ord. of 4-26-2011	4-26-2011	—	10-1
Ord. of 9-13-2011	9-13-2011	—	66-57
Ord. of 9-27-2011	9-27-2011	—	10-1—10-5
		—	10-29—10-39
		—	10-42, 10-43
Ord. of 8-14-2012	8-14-2012	—	1-14
		—	34-3
		—	34-5
Ord. of 8-28-2012	8-28-2012	—	66-23
Ord. No. 2013001	11-12-2013	112.01	18-20
		112.02	18-19
		112.03	18-21
		112.04	18-22
		112.05	18-23
		112.06	18-24
Ord. of 3-25-2014	3-25-2014	—	66-23
Ord. of 7-7-2014	7-7-2014	—	66-55, 66-56
Ord. of 9-29-2014	9-29-2014	—	46-4
Ord. of 11-24-2014	11-24-2014	—	66-53
Ord. of 12-9-2014	12-9-2014	—	34-5
		—	46-5
		—	46-7
Ord. of 4-14-2015	4-14-2015	—	54-1
Ord. of 11-10-2015	11-10-2015	—	66-53
Ord. No. 2016002	1-12-2016	exh. A	66-79—66-83
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